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⁽¹⁾ Text with EEA relevance.

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(Acts whose publication is obligatory)

**REGULATION (EC) No 1906/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 18 December 2006**

laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 167 and the second paragraph of Article 172 thereof,

Having regard to the proposal from the Commission,

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

Having regard to the Opinion of the Court of Auditors ⁽²⁾,

Acting in accordance with the procedure referred to in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) The Seventh Framework Programme was adopted by Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) ⁽⁴⁾. It is the responsibility of the Commission to ensure the implementation of that framework programme and its specific programmes, including the related financial aspects.
- (2) The Seventh Framework Programme is implemented in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁵⁾, hereinafter 'the Financial Regulation', and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation ⁽⁶⁾, hereinafter 'the Implementing Rules'.

(3) The Seventh Framework Programme is also implemented in accordance with the State aid rules, in particular the rules on State aid for research and development, currently the Community Framework for State Aid for Research and Development ⁽⁷⁾.

(4) Treatment of confidential data is governed by all the relevant Community legislation, including the Institutions' internal rules such as Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal Rules of Procedure ⁽⁸⁾ regarding provisions of security.

(5) The rules for the participation of undertakings, research centres and universities should provide a coherent, comprehensive and transparent framework to ensure the most efficient implementation possible, taking into account the need for easy access for all participants through simplified procedures, in accordance with the principle of proportionality.

(6) The rules should also facilitate the exploitation of intellectual property developed by a participant, taking also into account the way in which the participant may be organised internationally, whilst protecting the other participants' and the Community's legitimate interests.

(7) The Seventh Framework Programme should promote participation from the outermost regions of the Community, as well as from a wide range of undertakings, research centres and universities, including SMEs.

(8) The definition of micro, small and medium-sized enterprises (SMEs) provided in Commission Recommendation 2003/361/EC ⁽⁹⁾ should apply, for reasons of coherence and transparency.

⁽¹⁾ Opinion delivered on 5 July 2006 (not yet published in the Official Journal).

⁽²⁾ OJ C 203, 25.8.2006, p. 1.

⁽³⁾ Opinion of the European Parliament of 30 November 2006 (not yet published in the Official Journal) and Council Decision of 18 December 2006.

⁽⁴⁾ OJ L 412, 30.12.2006, p. 1.

⁽⁵⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁶⁾ OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 1248/2006 (OJ L 227, 19.8.2006, p. 3).

⁽⁷⁾ OJ C 45, 17.2.1996, p. 5.

⁽⁸⁾ OJ L 317, 3.12.2001, p. 1. Decision as last amended by Decision 2006/548/EC, Euratom (OJ L 215, 5.8.2006, p. 38).

⁽⁹⁾ OJ L 124, 20.5.2003, p. 36.

- (9) It is necessary to establish the minimum conditions for participation, both as a general rule and with regard to the specificities of indirect actions under the Seventh Framework Programme. In particular, rules should be laid down regarding the number of participants and their place of establishment.
- (10) It is appropriate that any legal entity should be free to participate once the minimum conditions have been satisfied. Participation over and above the minimum should ensure the efficient implementation of the indirect action concerned.
- (11) International organisations dedicated to developing cooperation in the field of research in Europe and largely made up of Member States or Associated countries should be encouraged to participate in the Seventh Framework Programme.
- (12) It follows from Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community ('Overseas Association Decision') ⁽¹⁾, that legal entities of the overseas countries and territories are eligible to participate in the Seventh Framework Programme.
- (13) In line with the objectives of international cooperation as described by Articles 164 and 170 of the Treaty, the participation of legal entities established in third countries should also be envisaged, as should the participation of international organisations. However, it is appropriate to require that such participation be justified in terms of the enhanced contribution thereby made to the objectives sought under the Seventh Framework Programme.
- (14) In line with the objectives mentioned above, it is necessary to establish the terms and conditions for providing Community funding to participants in indirect actions.
- (15) For the benefit of participants, there should be an effective and smooth transition from the cost calculation regime used in the Sixth Framework Programme. The monitoring process of the Seventh Framework Programme should, therefore, address the budgetary impact of this change in particular as regards its effect on the administrative burden for participants.
- (16) It is necessary for the Commission to establish further rules and procedures, in addition to those provided for in the Financial Regulation and its Implementing Rules and this Regulation, to govern the submission, evaluation and selection of proposals and award of grants, as well as redress procedures for participants. In particular the rules governing the use of independent experts should be established.
- (17) It is appropriate for the Commission to establish further rules and procedures, in addition to those provided for in the Financial Regulation and its Implementing Rules, to govern the assessment of the legal and financial viability of participants in indirect actions under the Seventh Framework Programme. Such rules should strike the right balance between protecting the Community's financial interests and simplifying and facilitating the participation of legal entities in the Seventh Framework Programme.
- (18) In this context, the Financial Regulation and the Implementing Rules and Council Regulation (Euratom, EC) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests ⁽²⁾, govern inter alia the protection of the Community's financial interests, the fight against fraud and irregularity, the procedures for the recovery of sums owed to the Commission, exclusion from contract and grant procedures and related penalties, and audits, checks, and inspections by the Commission and the Court of Auditors, pursuant to Article 248(2) of the Treaty.
- (19) It is necessary that the Community financial contribution reaches the participants without undue delay.
- (20) The agreements concluded for each action should provide for supervision and financial control by the Commission, or any representative authorised by the Commission, as well as audits by the Court of Auditors and on-the-spot checks carried out by the European Anti-Fraud Office (OLAF), in accordance with the procedures laid down in Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽³⁾.
- (21) The Commission should monitor both the indirect actions carried out under the Seventh Framework Programme and the Seventh Framework Programme and its Specific Programmes. With a view to ensuring the efficient and coherent monitoring and evaluation of the implementation of indirect actions, the Commission should set up and maintain an appropriate information system.
- (22) The Seventh Framework Programme should reflect and promote the general principles laid down in the European Charter for Researchers and Code of Conduct for the Recruitment of Researchers ⁽⁴⁾, while respecting their voluntary character.
- (23) The rules governing the dissemination of research results should ensure that, where appropriate, the participants protect the intellectual property generated in actions, and use and disseminate those results.

⁽¹⁾ OJ L 314, 30.11.2001, p. 1.

⁽²⁾ OJ L 312, 23.12.1995, p. 1.

⁽³⁾ OJ L 292, 15.11.1996, p. 2.

⁽⁴⁾ OJ L 75, 22.3.2005, p. 67.

(24) While respecting the rights of the owners of intellectual property, those rules should be designed to ensure that participants and, where appropriate, their affiliated entities established in a Member State or associated country have access to information they bring to the project and to knowledge arising from research work carried out in the project to the extent necessary to conduct the research work or to use the resulting knowledge.

(25) The obligation established in the sixth Framework Programme for certain participants to take financial responsibility for their partners in the same consortium will be waived. In this context, a participant guarantee fund, managed by the Commission, should be established to cover amounts due and not reimbursed by defaulting partners. Such an approach will promote simplification and facilitate the participation of, notably, SMEs, whilst safeguarding the Community's financial interests in a manner appropriate for the Seventh Framework Programme.

(26) Community contributions to a joint undertaking or any other structure set up pursuant to Article 171 of the Treaty, or pursuant to Article 169 of the Treaty do not fall within the scope of this Regulation.

(27) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

(28) The Community may award a grant to the European Investment Bank (EIB) to foster private sector investment in eligible large European RTD actions by increasing the capacity of the EIB to manage risk, thus allowing for (i) a larger volume of EIB lending for a certain level of risk, and (ii) the financing of riskier European RTD actions than would be possible without such Community support.

(29) The Community may provide financial support, as established in the Financial Regulation, inter alia by means of:

(a) public procurements, in the form of a price for goods or services established by contract and selected on the basis of calls for tender;

(b) grants;

(c) subscriptions to an organisation in the form of a membership fee;

(d) honoraria for independent experts identified in Article 17 of this Regulation,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

Subject matter

This Regulation lays down the rules for the participation of undertakings, research centres and universities and other legal entities in actions undertaken by one or more participants by means of funding schemes identified in part (a) of Annex III to Decision No 1982/2006/EC, hereinafter 'indirect actions'.

It also lays down rules, in accordance with those laid down in the Financial Regulation and the Implementing Rules concerning the Community financial contribution to participants in indirect actions under the Seventh Framework Programme.

As regards the results of research carried out under the Seventh Framework Programme, this Regulation lays down rules for the disclosure of foreground by any appropriate means other than that resulting from the formalities for protecting it, and including the publication of foreground in any medium, hereinafter 'dissemination'.

In addition, it lays down rules for the direct or indirect utilisation of foreground in further research activities other than those covered by the indirect action concerned, or for developing, creating and marketing a product or process, or for creating and providing a service, hereinafter 'use'.

In respect of both foreground and background, this Regulation lays down rules concerning licences and user rights thereto, hereinafter 'access rights'.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply in addition to those set out in the Financial Regulation and the Implementing Rules:

- 1) 'legal entity' means any natural person, or any legal person created under the national law of its place of establishment, or under Community law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations. In the case of natural persons, references to establishment are deemed to refer to habitual residence;

- 2) 'affiliated entity' means any legal entity that is under the direct or indirect control of a participant, or under the same direct or indirect control as the participant, control taking any of the forms set out in Article 6(2);
- 3) 'fair and reasonable conditions' means appropriate conditions including possible financial terms, taking into account the specific circumstances of the request for access, for example the actual or potential value of the foreground or background to which access is requested and/or the scope, duration or other characteristics of the use envisaged;
- 4) 'foreground' means the results, including information, whether or not they can be protected, which are generated by the indirect action concerned. Such results include rights related to copyright, design rights, patent rights, plant variety rights or similar forms of protection;
- 5) 'background' means information which is held by participants prior to their accession to the grant agreement, as well as copyrights or other intellectual property rights pertaining to such information, the application for which has been filed before their accession to the grant agreement, and which is needed for carrying out the indirect action or for using the results of the indirect action;
- 6) 'participant' means a legal entity contributing to an indirect action and having rights and obligations with regard to the Community under the terms of this Regulation;
- 7) 'research organisation' means a legal entity established as a non-profit organisation which carries out research or technological development as one of its main objectives;
- 8) 'third country' means a State that is not a Member State;
- 9) 'associated country' means a third country which is party to an international agreement with the Community, under the terms or on the basis of which it makes a financial contribution to all or part of the Seventh Framework Programme;
- 10) 'international organisation' means an intergovernmental organisation, other than the Community, which has legal personality under international public law, as well as any specialised agency set up by such an international organisation;
- 11) 'international European interest organisation' means an international organisation, the majority of whose members are Member States or Associated countries, and whose principal objective is to promote scientific and technological cooperation in Europe;
- 12) 'international cooperation partner country' means a third country which the Commission classifies as a low-income, lower-middle-income or upper-middle-income country and which is identified as such in the work programmes;
- 13) 'public body' means any legal entity established as such by national law, and international organisations;
- 14) 'SMEs' mean micro, small and medium-sized enterprises within the meaning of Recommendation 2003/361/EC in the version of 6 May 2003;
- 15) 'work programme' means a plan adopted by the Commission for the implementation of a specific programme as identified in Article 3 of Decision No 1982/2006/EC;
- 16) 'funding schemes' mean the mechanisms for the Community funding of indirect actions as established in part (a) of Annex III to Decision No 1982/2006/EC;
- 17) 'specific groups' means the beneficiaries of 'research for specific groups' identified in the specific programme and/or work programme;
- 18) 'RTD performer' means a legal entity carrying out research or technological development activities in funding schemes for the benefit of specific groups as identified in Annex III to Decision No 1982/2006/EC.

Article 3

Confidentiality

Subject to the conditions established in the grant agreement, appointment letter or contract, the Commission and the participants shall keep confidential any data, knowledge and documents communicated to them as confidential.

CHAPTER II

PARTICIPATION

SECTION 1

Minimum conditions

Article 4

General principles

1. Any undertaking, university or research centre or other legal entity, whether established in a Member State or associated country, or in a third country, may participate in an indirect action provided that the minimum conditions laid down in this Chapter have been met, including any conditions specified pursuant to Article 12.

However, in the case of an indirect action as referred to in Articles 5(1), 7, 8 or 9, under which it is possible for the minimum conditions to be met without the participation of a legal entity established in a Member State, the attainment of the objectives laid down in Articles 163 and 164 of the Treaty must thereby be enhanced.

2. The Joint Research Centre of the Commission, hereinafter 'the JRC', may participate in indirect actions on the same footing and with the same rights and obligations as a legal entity established in a Member State.

Article 5

Minimum conditions

1. The minimum conditions for indirect actions shall be the following:

- (a) at least three legal entities must participate, each of which must be established in a Member State or associated country, and no two of which may be established in the same Member State or associated country;
- (b) all three legal entities must be independent of each other within the meaning of Article 6.

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

Article 6

Independence

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

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

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

3. However, the following relationships between legal entities shall not in themselves be deemed to constitute controlling relationships:

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

Article 7

Indirect actions for specific cooperation activities dedicated to international cooperation partner countries

For collaborative projects for specific cooperation actions dedicated to international cooperation partner countries identified in the work programme, the minimum conditions shall be the following:

- (a) at least four legal entities must participate;
- (b) at least two of the legal entities referred to in point (a) must be established in Member States or associated countries, but not established in the same Member State or associated country;
- (c) at least two of the legal entities referred to in point (a) must be established in international cooperation partner countries, but not established in the same international cooperation partner country, unless otherwise specified in the work programme;
- (d) all four legal entities referred to in point (a) must be independent of each other within the meaning of Article 6.

Article 8

Coordination and support actions, and training and career development of researchers

For coordination and support actions, and actions in favour of training and career development of researchers, the minimum condition shall be the participation of one legal entity.

The first paragraph shall not apply in the case of actions whose purpose is to coordinate research activities.

Article 9

'Frontier' research projects

For indirect actions to support 'frontier' research projects funded in the framework of the European Research Council, the minimum condition shall be the participation of one legal entity established in a Member State or in an associated country.

Article 10

Sole participants

Where the minimum conditions for an indirect action are satisfied by a number of legal entities, which together form one legal entity, the latter may be the sole participant in an indirect action, provided that it is established in a Member State or associated country.

*Article 11***International organisations and legal entities established in third countries**

Participation in indirect actions shall be open to international organisations and legal entities established in third countries provided that the minimum conditions laid down in this Chapter are met, as well as any conditions laid down in the specific programmes or relevant work programmes.

*Article 12***Additional conditions**

In addition to the minimum conditions laid down in this Chapter, specific programmes or work programmes may lay down conditions regarding the minimum number of participants.

They may also lay down, according to the nature and objectives of the indirect action, additional conditions to be met as regards type of participant and, where appropriate, place of establishment.

SECTION 2

Procedures

Subsection 1

Calls for proposals*Article 13***Calls for proposals**

1. The Commission shall issue calls for proposals for indirect actions in accordance with the requirements laid down in the relevant specific programmes and work programmes, which may include calls targeted at special groups such as SMEs.

In addition to the publicity specified in the Implementing Rules, the Commission shall publish calls for proposals on the Internet pages of the Seventh Framework Programme, through specific information channels, and at the national contact points set up by the Member States and the associated countries.

2. Where appropriate, the Commission shall specify in the call for proposals that the participants need not establish a consortium agreement.

3. Calls for proposals shall have clear objectives so as to ensure that applicants do not respond needlessly.

*Article 14***Exceptions**

The Commission shall not issue calls for proposals for the following:

- (a) coordination and support actions to be carried out by legal entities identified in the specific programmes or in the work programmes when the specific programme permits the work programmes to identify beneficiaries, in accordance with the Implementing Rules;
- (b) coordination and support actions consisting of a purchase of goods or services subject to the rules on public procurement set out in the Financial Regulation;
- (c) coordination and support actions relating to the appointment of independent experts;
- (d) other actions, where so provided by the Financial Regulation or the Implementing Rules.

Subsection 2

Evaluation and selection of proposals and award of grants*Article 15***Evaluation, selection and award**

1. The Commission shall evaluate all the proposals submitted in response to a call for proposals on the basis of the principles for evaluation, and the selection and award criteria set out in the specific programme and the work programme.

- (a) The following criteria shall apply for the 'Cooperation' and 'Capacities' Programmes:
 - scientific and/or technological excellence,
 - relevance to the objectives of these specific programmes,
 - the potential impact through the development, dissemination and use of project results,
 - the quality and efficiency of the implementation and management.
- (b) The following criteria shall apply for the 'People' Programme:
 - scientific and/or technological excellence,
 - relevance to the objectives of this specific programme,
 - quality and implementation capacity of the applicants (researchers/organisations) and their potential for further progress,
 - quality of the proposed activity in scientific training and/or transfer of knowledge.

- (c) For support for 'frontier' research actions under the 'Ideas' Programme the sole criterion of excellence shall apply. For coordination and support actions, project-related criteria may apply.

Within this framework the work programmes shall specify the evaluation and selection criteria and may add additional requirements, weightings and thresholds, or set out further details on the application of the criteria.

2. A proposal which contravenes fundamental ethical principles or which does not fulfil the conditions set out in the specific programme, the work programme or in the call for proposals shall not be selected. Such a proposal may be excluded from the evaluation, selection and award procedures at any time.

3. Proposals shall be ranked according to the evaluation results. Funding decisions shall be made on the basis of this ranking.

Article 16

Submission, evaluation, selection and award procedures

1. Where a call for proposals specifies a two-step evaluation procedure, only those proposals that pass the first step, based on the evaluation against a limited set of criteria, shall go forward for further evaluation.

2. Where a call for proposals specifies a two-stage submission procedure, only those applicants whose proposals pass the evaluation for the first stage shall be requested to submit a complete proposal in the second stage.

All applicants shall be swiftly informed of the results of the first-stage evaluation.

3. The Commission shall adopt and publish rules governing the procedure for the submission of proposals, as well as the related evaluation, selection and award procedures and publish guides for applicants including guidelines for evaluators. In particular, it shall lay down detailed rules for the two-stage submission procedure (including as regards the scope and nature of the first-stage proposal as well as those of the complete second-stage proposal), and rules for the two-step evaluation procedure.

The Commission shall provide information and set out redress procedures for applicants.

4. The Commission shall adopt and publish rules to ensure consistent verification of the existence and legal status of participants in indirect actions as well as their financial capacity.

The Commission shall refrain from renewing such verification unless the situation of the participant concerned has changed.

Article 17

Appointment of independent experts

1. The Commission shall appoint independent experts to assist with evaluations of proposals.

For coordination and support actions, referred to in Article 14, independent experts shall be appointed only if the Commission deems it appropriate.

2. Independent experts shall be chosen on the basis of skills and knowledge appropriate to the tasks assigned to them. In cases where independent experts will have to deal with classified information, the appropriate security clearance shall be required before appointment.

Independent experts shall be identified and selected on the basis of calls for applications from individuals and calls addressed to relevant organisations such as national research agencies, research institutions or enterprises with a view to establishing lists of suitable candidates.

The Commission may, if deemed appropriate, select any individual with the appropriate skills from outside the lists.

Appropriate measures shall be taken to ensure reasonable gender balance when appointing groups of independent experts.

For 'frontier' research projects, experts shall be appointed by the Commission on the basis of a proposal from the Scientific Council of the European Research Council.

3. When appointing an independent expert, the Commission shall take all necessary steps to ensure that the expert is not faced with a conflict of interests in relation to the matter on which the expert is required to provide an opinion.

4. The Commission shall adopt a model appointment letter, hereinafter 'the appointment letter', which shall include a declaration that the independent expert has no conflict of interest at the time of appointment and that he undertakes to inform the Commission if any conflict of interest should arise in the course of providing his opinion or carrying out his duties. The Commission shall conclude an appointment letter between the Community and each independent expert.

5. The Commission shall publish once a year in any appropriate medium the list of the independent experts that have assisted it for the Seventh Framework Programme and each specific programme.

Subsection 3

Implementation and grant agreements*Article 18***General**

1. The participants shall implement the indirect action and shall take all necessary and reasonable measures to that end. Participants in the same indirect action shall implement the work jointly and severally towards the Community.
2. The Commission shall draw up, on the basis of the model provided for in Article 19(8) and taking into account the characteristics of the funding scheme concerned, a grant agreement between the Community and the participants.
3. Participants shall make no commitments incompatible with the grant agreement.
4. Where a participant fails to comply with its obligations regarding the technical implementation of the indirect action, the other participants shall comply with the grant agreement without any complementary Community contribution unless the Commission expressly relieves them of that obligation.
5. If the implementation of an action becomes impossible or if the participants fail to implement it, the Commission shall ensure the termination of the action.
6. Participants shall ensure that the Commission is informed of any event which might affect the implementation of the indirect action or the interests of the Community.
7. Where provided for in the grant agreement, the participants may subcontract certain elements of the work to be carried out to third parties.
8. The Commission shall set out redress procedures for participants.

*Article 19***General provisions for inclusion in grant agreements**

1. The grant agreement shall establish the rights and obligations of the participants with regard to the Community, in accordance with Decision No 1982/2006/EC, this Regulation, the Financial Regulation, and the Implementing Rules, and in accordance with the general principles of Community law.

It shall also establish, in accordance with the same conditions, the rights and obligations of legal entities who become participants when the indirect action is ongoing.

2. Where appropriate, the grant agreement shall specify which part of the Community financial contribution will be based on the reimbursement of eligible costs, and which part will be based on flat rates (including scale of unit costs) or lump-sums.

3. The grant agreement shall specify which changes in the composition of the consortium are to require the prior publication of a competitive call.

4. The grant agreement shall require the submission to the Commission of periodic progress reports concerning the implementation of the indirect action concerned.

5. Where appropriate, the grant agreement may provide that the Commission is to be notified in advance of any intended transfer of ownership of foreground to a third party.

6. Where the grant agreement requires participants to carry out activities that benefit third parties, the participants shall advertise this widely and identify, evaluate and select third parties transparently, fairly and impartially. If provided for in the work programme, the grant agreement shall establish criteria for the selection of such third parties. The Commission reserves the right to object to the selection of the third parties.

7. The grant agreement may lay down time-limits for participants to give the various notifications referred to in this Regulation.

8. The Commission shall, in close cooperation with Member States, establish a model grant agreement in accordance with this Regulation. If a significant modification of the model grant agreement proves necessary, the Commission shall, in close cooperation with Member States, revise it as appropriate.

9. The model grant agreement shall reflect the general principles laid down in the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers. It shall address, as appropriate, synergies with education at all levels; readiness and capacity to foster dialogue and debate on scientific issues and research results with a broad public beyond the research community; activities to increase the participation and role of women in research; and activities addressing socio-economic aspects of the research.

10. The model grant agreement shall provide for supervision and financial control by the Commission or any representative authorised by it, and the Court of Auditors.

*Article 20**Article 23***Provisions concerning access rights, use and dissemination****Signature and accession**

1. The grant agreement shall establish the respective rights and obligations of the participants with regard to access rights, use and dissemination, in so far as those rights and obligations have not been laid down in this Regulation.

The grant agreement shall enter into force upon signature by the coordinator and the Commission.

For those purposes, it shall require the submission to the Commission of a plan for the use and dissemination of foreground.

It shall apply to each participant that has formally acceded thereto.

2. The grant agreement may specify the conditions under which the participants may object to a technological audit of the use and dissemination of the foreground being carried out by certain authorised representatives of the Commission.

Subsection 4

Consortia*Article 24***Consortium agreements***Article 21***Provisions concerning termination**

The grant agreement shall specify the grounds for its termination, in whole or in part, in particular for non-compliance with this Regulation, non-performance or breach, as well as the consequences for participants of any non-compliance on the part of another participant.

1. Save where otherwise provided in the call for proposals, all participants in an indirect action shall conclude an agreement, hereinafter 'the consortium agreement', to govern inter alia the following:

- (a) the internal organisation of the consortium;
- (b) the distribution of the Community financial contribution;
- (c) rules on dissemination, use and access rights, additional to those in Chapter III and to the provisions in the grant agreement;
- (d) the settlement of internal disputes including cases of abuse of power;
- (e) liability, indemnification and confidentiality arrangements between the participants.

*Article 22***Specific provisions**

1. In the case of indirect actions to support existing research infrastructures and, where applicable, new research infrastructures, the grant agreement may lay down specific provisions relating to confidentiality, publicity and access rights and commitments that might affect users of the infrastructure.

2. The Commission shall establish and publish guidelines on the main issues that may be addressed by participants in their consortium agreements, including provisions on promoting the participation of SMEs.

2. In the case of indirect actions to support training and career development of researchers, the grant agreement may lay down specific provisions on confidentiality, access rights and commitments relating to the researchers benefiting from the action.

*Article 25***Coordinator**

3. In the case of indirect actions in the field of security research, the grant agreement may lay down specific provisions in particular on changes to the consortium's composition, confidentiality, classification of information and information to Member States, dissemination, access rights, transfer of ownership of foreground and the use thereof.

1. The legal entities wishing to participate in an indirect action shall appoint one of their number to act as coordinator to carry out the following tasks in accordance with this Regulation, the Financial Regulation, the Implementing Rules, and the grant agreement:

4. Where appropriate, the grant agreement for indirect actions addressing security issues, other than those referred to in paragraph 3, may also include such specific provisions.

(a) to monitor the compliance by participants in the indirect action with their obligations;

(b) to verify whether the legal entities identified in the grant agreement complete the necessary formalities for accession to the grant agreement;

5. In the case of 'frontier' research actions, the grant agreement may lay down specific provisions relating to dissemination.

(c) to receive the Community financial contribution and to distribute it in accordance with the consortium and grant agreement;

- (d) to keep the records and financial accounts relevant for the Community financial contribution and to inform the Commission of its distribution in accordance with Articles 24(1), point (b) and 36;
- (e) to be intermediary for efficient and correct communication between the participants and to report regularly to the participants and to the Commission on the progress of the project.
2. The coordinator shall be identified in the grant agreement.
3. The appointment of a new coordinator shall require the written approval of the Commission.

Article 26

Changes in the consortium

1. The participants in an indirect action may agree to add a new participant or to remove an existing participant in accordance with the respective provisions in the consortium agreement.
2. Any legal entity which joins an ongoing action shall accede to the grant agreement.
3. In specific cases, where provided for in the grant agreement, the consortium shall publish a competitive call and advertise it widely using specific information support, particularly Internet sites on the Seventh Framework Programme, the specialist press and brochures, and the national contact points set up by the Member States and associated countries for information and support.

The consortium shall evaluate offers in the light of the criteria which governed the initial action and with the assistance of independent experts appointed by the consortium, in accordance with the principles laid down in Articles 15 and 17 respectively.

4. The consortium shall notify any proposed change of its composition to the Commission, which may object within 45 days of the notification.

Changes in the composition of the consortium associated with proposals for other changes to the grant agreement which are not directly related to the change in composition shall be subject to written approval by the Commission.

Subsection 5

Monitoring and evaluation of programmes and indirect actions and communication of information

Article 27

Monitoring and evaluation

1. The Commission shall monitor the implementation of indirect actions on the basis of the periodic progress reports submitted pursuant to Article 19(4).

In particular, the Commission shall monitor the implementation of the plan for the use and dissemination of foreground, submitted pursuant to the second subparagraph of Article 20 (1).

For those purposes, the Commission may be assisted by independent experts appointed in accordance with Article 17.

2. The Commission shall set up and maintain an information system allowing for this monitoring to take place in an efficient and coherent manner across the Seventh Framework Programme.

Subject to Article 3, the Commission shall publish information on the funded projects in any appropriate medium.

3. The monitoring and evaluation referred to in Article 7 of Decision No 1982/2006/EC shall include aspects relating to the application of this Regulation, in particular aspects relevant for SMEs, and shall address the budgetary impact of the changes in the cost calculation regime as compared to the Sixth Framework Programme and its effects on the administrative burden for participants.

4. The Commission shall appoint, in accordance with Article 17, independent experts to assist with evaluations required under the Seventh Framework Programme and its specific programmes, and, as deemed necessary, for the evaluation of previous Framework Programmes.

5. In addition, the Commission may set up groups of independent experts appointed in accordance with Article 17, to advise on the design and implementation of Community research policy.

Article 28

Information to be made available

1. Having due regard to Article 3, the Commission shall, upon request, make available to any Member State or associated country any useful information in its possession on foreground arising from work carried out in the context of an indirect action, provided that the following conditions are met:

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

2. Under no circumstances shall the provision of information pursuant to paragraph 1 be deemed to transfer to the recipient any rights or obligations of the Commission or of the participants.

However, the recipient shall treat any such information as confidential unless it becomes public or is made available publicly by the participants, or unless it was communicated to the Commission without restrictions concerning confidentiality.

SECTION 3

Community financial contribution

Subsection 1

Eligibility for funding and forms of grants

Article 29

Eligibility for funding

1. The following legal entities participating in an indirect action may receive a Community financial contribution:

- (a) any legal entity established in a Member State or an associated country, or created under Community law;
- (b) any international European interest organisation;
- (c) any legal entity established in an international cooperation partner country.

2. In the case of a participating international organisation, other than an international European interest organisation, or a legal entity established in a third country other than an associated country or international cooperation partner country, a Community financial contribution may be granted provided that at least one of the following conditions is satisfied:

- (a) provision is made to that effect in the specific programmes or in the relevant work programme;
- (b) the contribution is essential for carrying out the indirect action;
- (c) such funding is provided for in a bilateral scientific and technological agreement or any other arrangement between the Community and the country in which the legal entity is established.

Article 30

Forms of grants

1. The Community financial contribution for grants identified in part a) of Annex III to the Decision No 1982/2006/EC shall be based on the reimbursement, in whole or in part, of eligible costs.

However, the Community financial contribution may take the form of flat-rate financing, including scale of unit costs, or lump-sum financing, or it may combine the reimbursement of eligible costs with flat rates and lump sums. The Community financial contribution may also take the form of scholarships or prizes.

2. The work programmes and calls for proposals shall specify the forms of grants to be used in the actions concerned.

3. Participants from international cooperation partner countries may opt for the Community financial contribution in the form of lump-sum financing. The Commission shall establish applicable lump sums in accordance with the Financial Regulation.

Article 31

Reimbursement of eligible costs

1. Indirect actions financed by grants shall be co-financed by the participants.

The Community financial contribution to reimburse eligible costs shall not give rise to a profit.

2. Receipts shall be taken into consideration for the payment of the grant at the end of the implementation of the action.

3. In order to be considered eligible, costs incurred in the implementation of an indirect action must meet the following conditions:

- (a) they must be actual;
- (b) they must have been incurred during the duration of the action, with the exception of final reports where provided for in the grant agreement;
- (c) they must have been determined in accordance with the usual accounting and management principles and practices of the participant and used for the sole purpose of achieving the objectives of the indirect action and its expected results, in a manner consistent with the principles of economy, efficiency and effectiveness;
- (d) they must be recorded in the accounts of the participant and, in the case of any contribution from third parties, they must be recorded in the accounts of the third parties;
- (e) they must be exclusive of non-eligible costs, in particular identifiable indirect taxes including value added tax, duties, interest owed, provisions for possible future losses or charges, exchange losses, costs related to return on capital, costs declared, incurred, or reimbursed in respect of another Community project, debt and debt service charges, excessive or reckless expenditure, and any other costs that do not meet the conditions laid down in points (a) to (d).

For the purposes of point (a), average personnel costs may be used if they are consistent with the management principles and accounting practices of the participant and do not differ significantly from actual costs.

4. While the Community financial contribution shall be calculated by reference to the cost of the indirect action as a whole, its reimbursement shall be based on the reported costs of each participant.

Article 32

Direct eligible costs and indirect eligible costs

1. Eligible costs shall be composed of costs attributable directly to the action, hereinafter 'direct eligible costs' and, where applicable, of costs which are not attributable directly to the action, but which have been incurred in direct relationship with the direct eligible costs attributed to the action, hereinafter 'indirect eligible costs'.

2. The reimbursement of participants' costs shall be based on their eligible direct and indirect costs.

In compliance with Article 31(3), point (c), a participant may use a simplified method of calculation of its indirect eligible costs at the level of its legal entity if this is in accordance with its usual accounting and management principles and practices. Principles to be followed in this respect shall be set out in the model grant agreement.

3. The grant agreement may provide that the reimbursement of indirect eligible costs is to be limited to a maximum percentage of the direct eligible costs, excluding the direct eligible costs for subcontracting, in particular in the case of coordination and support actions, and, where appropriate, actions for training and career development of researchers.

4. By derogation from paragraph 2, for the coverage of indirect eligible costs a participant may opt for a flat rate of its total direct eligible costs, excluding its direct eligible costs for subcontracting or reimbursement of third parties' costs.

The Commission shall establish appropriate flat rates based on a close approximation of the real indirect costs concerned, in accordance with the Financial Regulation and its Implementing Rules.

5. Non-profit public bodies, secondary and higher education establishments, research organisations and SMEs which are unable to identify with certainty their real indirect costs for the action concerned, when participating in funding schemes which include research and technological development and demonstration activities, as referred to in Article 33, may opt for a flat-rate equal to 60 % of the total direct eligible costs for grants awarded under calls for proposals closing before 1 January 2010.

With a view to facilitating a transition to full application of the general principle established in paragraph 2, the Commission

shall establish, for grants awarded under calls closing after 31 December 2009, an appropriate level of flat rate which should be an approximation of the real indirect costs concerned but not lower than 40 %. This will be based on an evaluation of participation by non-profit public bodies, secondary and higher education establishments, research organisations and SMEs which are unable to identify with certainty their real indirect costs for the action concerned.

6. All flat rates shall be set out in the model grant agreement.

Article 33

Upper funding limits

1. For research and technological development activities, the Community financial contribution may reach a maximum of 50 % of the total eligible costs.

However, in the case of non-profit public bodies, secondary and higher education establishments, research organisations and SMEs, it may reach a maximum of 75 % of the total eligible costs.

For security-related research and technological development activities, it may reach a maximum of 75 % in the case of the development of capabilities in domains with very limited market size and a risk of 'market failure' and for accelerated equipment development in response to new threats.

2. For demonstration activities, the Community financial contribution may reach a maximum of 50 % of the total eligible costs.

3. For activities supported by 'frontier' research actions, coordination and support actions, and actions for the training and career development of researchers, the Community financial contribution may reach a maximum of 100 % of the total eligible costs.

4. For management activities, including certificates on the financial statements, and other activities not covered by paragraphs 1, 2 and 3, the Community financial contribution may reach a maximum of 100 % of the total eligible costs.

The other activities referred to in the first subparagraph include, inter alia, training in actions that do not fall under the funding scheme for training and career development of researchers, coordination, networking, and dissemination.

5. For the purposes of paragraphs 1 to 4, eligible costs and receipts shall be taken into consideration in order to determine the Community financial contribution.

6. Paragraphs 1 to 5 shall apply, as appropriate, in the case of indirect actions where flat-rate financing or lump-sum financing is used for the whole indirect action.

Article 34

Reporting and audit of eligible costs

1. Periodic reports shall be submitted to the Commission regarding eligible costs, financial interest yielded by pre-financing, and receipts in relation to the indirect action concerned and, where appropriate, a certificate on the financial statements, in accordance with the Financial Regulation and the Implementing Rules.

The existence of co-financing in relation to the concerned action shall be reported and, where appropriate, certified at the end of the action.

2. Notwithstanding the Financial Regulation and the Implementing Rules, a certificate on the financial statements shall be compulsory only whenever the cumulative amount of interim payments and balance payments made to a participant is equal to EUR 375 000 or more for an indirect action.

However, for indirect actions of a duration of 2 years or less, not more than one certificate on the financial statements shall be requested from the participant, at the end of the project.

Certificates on the financial statements shall not be required for indirect actions entirely reimbursed by means of lump sums or flat rates.

3. In the case of public bodies, research organisations, and higher and secondary education establishments, a certificate on the financial statements as required under paragraph 1 may be established by a competent public officer.

Article 35

Networks of Excellence

1. The work programme shall provide for the forms of grants to be used for Networks of Excellence.

2. Where the Community financial contribution to Networks of Excellence takes the form of a lump sum, it shall be calculated according to the number of researchers to be integrated in the Network of Excellence and the duration of the action. The unit value for lump sums paid shall be EUR 23 500 per year and per researcher.

That amount shall be adjusted by the Commission in accordance with the Financial Regulation and the Implementing Rules.

3. The work programme shall establish the maximum number of participants and, where appropriate, the maximum number of researchers that may be used as the basis for the calculation of the maximum lump sum. However, participants over and above the maxima for the establishment of the financial contribution may participate as appropriate.

4. The payment shall be effected by means of periodic releases.

Those periodic releases shall be made according to the assessment of the progressive implementation of the Joint Programme of Activities through the measurement of integration of research resources and capacities based on performance indicators, negotiated with the consortium and specified in the grant agreement.

Subsection 2

Payment, distribution, recovery and guarantees

Article 36

Payment and distribution

1. The Community financial contribution shall be paid to the participants via the coordinator without undue delay.

2. The coordinator shall keep records making it possible to determine at any time the portion of the Community funds that has been distributed to each participant.

The coordinator shall communicate that information to the Commission upon request.

Article 37

Recovery

The Commission may adopt a recovery decision in accordance with the Financial Regulation.

Article 38

Risk avoidance mechanism

1. The financial responsibility of each participant shall be limited to its own debt, subject to paragraphs 2 to 5.

2. In order to manage the risk associated with non-recovery of sums due to the Community, the Commission shall establish and operate a participant guarantee fund (hereinafter 'the Fund') in accordance with the Annex.

Financial interest generated by the Fund shall be added to the Fund and shall serve exclusively for the purposes set out in point 3 of the Annex, without prejudice to point 4 thereto.

3. The contribution to the Fund by a participant to an indirect action taking the form of a grant shall not exceed 5 % of the Community financial contribution due to the participant. At the end of the action the amount contributed to the Fund shall be returned to the participant, via the coordinator, subject to paragraph 4.

4. If the interest generated by the Fund is insufficient to cover sums due to the Community, the Commission may deduct from the amount to be returned to a participant a maximum of 1 % of the Community financial contribution to it.

5. The deduction referred to in paragraph 4 shall not apply to public bodies, legal entities whose participation in the indirect action is guaranteed by a Member State or an associated country, and higher and secondary education establishments;

6. The Commission shall verify ex-ante only the financial capacity of coordinators, and of participants other than those referred to in paragraph 5 applying for a Community financial contribution in an indirect action in excess of EUR 500 000, unless there are exceptional circumstances, when, on the basis of information already available, there are justified grounds to doubt the financial capacity of these participants.

7. The Fund shall be considered as a sufficient guarantee under the Financial Regulation. No additional guarantee or security may be requested from participants or imposed on them.

CHAPTER III

DISSEMINATION AND USE, AND ACCESS RIGHTS

SECTION 1

Foreground

Subsection 1

Ownership

Article 39

Ownership of foreground

1. Foreground arising from work carried out under indirect actions other than those referred to in paragraph 3 shall be the property of the participant carrying out the work generating that foreground.

2. If employees or other personnel working for a participant are entitled to claim rights to foreground, the participant shall ensure that it is possible to exercise those rights in a manner compatible with its obligations under the grant agreement.

3. Foreground shall be the property of the Community in the following cases:

- (a) coordination and support actions consisting in a purchase of goods or services subject to the rules on public procurement set out in the Financial Regulation;
- (b) coordination and support actions relating to independent experts.

Article 40

Joint ownership of foreground

1. Where several participants have jointly carried out work generating foreground and where their respective share of the work cannot be ascertained, they shall have joint ownership of such foreground.

They shall establish an agreement regarding the allocation and terms of exercise of that joint ownership in accordance with the terms of the grant agreement.

2. Where no joint ownership agreement has yet been concluded, each of the joint owners shall be entitled to grant non-exclusive licenses to third parties, without any right to sub-licence, subject to the following conditions:

- (a) prior notice must be given to the other joint owners;
- (b) fair and reasonable compensation must be provided to the other joint owners.

3. Upon request, the Commission shall give guidance on possible matters to be included in the joint ownership agreement.

Article 41

Ownership of foreground by specific groups

In the case of actions for the benefit of specific groups, Article 39(1) and Article 40(1) shall not apply. In such cases, foreground shall be jointly owned by the participants which are members of the specific group benefiting from the action, unless otherwise agreed by those participants.

Where the owners of the foreground are not members of that group, they shall ensure that the group is provided with all the rights to that foreground required for the purposes of using and disseminating it in accordance with the technical annex to the grant agreement.

Article 42

Transfer of foreground

1. The owner of the foreground may transfer it to any legal entity, subject to paragraphs 2 to 5 and Article 43.

2. Where a participant transfers ownership of foreground, it shall pass on its obligations regarding that foreground to the assignee, including the obligation to pass them on to any subsequent assignee, in accordance with the grant agreement.

3. Subject to its obligations concerning confidentiality, where the participant is required to pass on access rights, it shall give prior notice to the other participants in the same action, together with sufficient information concerning the new owner of the foreground to permit them to exercise their access rights under the grant agreement.

However, the other participants may, by written agreement, waive their right to individual prior notice in the case of transfers of ownership from one participant to a specifically identified third party.

4. Following notification in accordance with the first subparagraph of paragraph 3, any other participant may object to any transfer of ownership on the ground that it would adversely affect their access rights.

Where any of the other participants demonstrate that their rights would be adversely affected, the intended transfer shall not take place until agreement has been reached between the participants concerned.

5. Where appropriate, the grant agreement may provide that the Commission is to be notified in advance of any intended transfer of ownership or any intended grant of an exclusive licence to a third party which is established in a third country not associated to the Seventh Framework Programme.

Article 43

Preservation of European competitiveness and ethical principles

The Commission may object to the transfer of ownership of foreground, or to the granting of an exclusive licence regarding foreground, to third parties established in a third country not associated to the Seventh Framework Programme, if it considers that this is not in accordance with the interests of developing the competitiveness of the European economy or is inconsistent with ethical principles or security considerations.

In such cases, the transfer of ownership or grant of exclusive licence shall not take place unless the Commission is satisfied that appropriate safeguards will be put in place.

Subsection 2

Protection, publication, dissemination and use

Article 44

Protection of foreground

1. Where foreground is capable of industrial or commercial application, its owner shall provide for its adequate and effective protection, having due regard to its legitimate interests and the legitimate interests, particularly the commercial interests, of the other participants in the indirect action concerned.

Where a participant who is not the owner of the foreground invokes its legitimate interest, it must, in any given instance, show that it would suffer disproportionately great harm.

2. Where the foreground is capable of industrial or commercial application and its owner does not protect it, and does not transfer it to another participant, an affiliated entity established in a Member State or associated country or any other third party established in a Member State or associated country along with the associated obligations in accordance with Article 42, no dissemination activities may take place before the Commission has been informed.

In such cases, the Commission may, with the consent of the participant concerned, assume ownership of that foreground and adopt measures for its adequate and effective protection. The participant concerned may refuse consent only if it can demonstrate that its legitimate interests would suffer disproportionately great harm.

Article 45

Statement relating to Community financial support

All publications, patent applications filed by or on behalf of a participant, or any other dissemination relating to foreground, shall include a statement, which may include visual means, that the foreground concerned was generated with the assistance of financial support from the Community.

The terms of that statement shall be established in the grant agreement.

Article 46

Use and dissemination

1. The participants shall use the foreground which they own, or ensure that it is used.

2. Each participant shall ensure that the foreground of which it has ownership is disseminated as swiftly as possible. If it fails to do so the Commission may disseminate that foreground. The grant agreement may set out time-limits in this respect.

3. Dissemination activities shall be compatible with the protection of intellectual property rights, confidentiality obligations, and the legitimate interests of the owner of the foreground.

4. Prior notice of any dissemination activity shall be given to the other participants concerned.

Following notification, any of those participants may object if it considers that its legitimate interests in relation to its foreground or background could suffer disproportionately great harm. In such cases, the dissemination activity may not take place unless appropriate steps are taken to safeguard these legitimate interests.

SECTION 2

Access rights to background and foreground

Article 47

Background covered

Participants may define the background needed for the purposes of the indirect action in a written agreement and, where appropriate, may exclude specific background.

Article 48

Principles

1. All requests for access rights shall be made in writing.
2. Unless otherwise agreed by the owner of the foreground or background, access rights shall confer no entitlement to grant sub-licences.
3. Exclusive licences for foreground or background may be granted, subject to written confirmation by all the other participants that they waive their access rights thereto.
4. Without prejudice to paragraph 3, any agreement providing access rights to foreground or background to participants or third parties shall be such as to ensure that potential access rights for other participants are maintained.
5. Without prejudice to Articles 49 and 50 and the grant agreement, participants in the same action shall inform each other as soon as possible of any limitation to the granting of access rights to background, or of any other restriction which might substantially affect the granting of access rights.
6. The termination of its participation in an indirect action shall in no way affect the obligation of that participant to grant access rights to the remaining participants in the same action under the terms and conditions established by the grant agreement.

Article 49

Access rights for implementation of indirect actions

1. Access rights to foreground shall be granted to the other participants in the same indirect action, if it is needed to enable those participants to carry out their own work under that indirect action.

Such access rights shall be granted on a royalty-free basis.

2. Access rights to background shall be granted to the other participants in the same indirect action, if it is needed to enable those participants to carry out their own work under that indirect action provided that the participant concerned is entitled to grant them.

Such access rights shall be granted on a royalty-free basis, unless otherwise agreed by all participants before their accession to the grant agreement.

However, RTD performers shall grant access rights to background on a royalty-free basis.

Article 50

Access rights for use

1. Participants in the same indirect action shall enjoy access rights to foreground, if it is needed to use their own foreground.

Subject to agreement, such access rights shall be granted either under fair and reasonable conditions or be royalty-free.

2. Participants in the same indirect action shall enjoy access rights to background, if it is needed to use their own foreground provided that the participant concerned is entitled to grant them.

Subject to agreement, such access rights shall be granted either under fair and reasonable conditions or be royalty-free.

3. An affiliated entity established in a Member State or associated country shall also have access rights, referred to in paragraphs 1 and 2, to foreground or background under the same conditions as the participant to which it is affiliated, unless otherwise provided for in the grant agreement or consortium agreement.

4. A request for access rights under paragraphs 1, 2 and 3 may be made up to one year after either of the following events:

- (a) the end of the indirect action;
- (b) termination of participation by the owner of the background or foreground concerned.

However, the participants concerned may agree on a different time-limit.

5. Subject to the agreement of all the owners concerned, access rights to foreground shall be granted to a RTD performer, on fair and reasonable conditions to be agreed, for the purposes of pursuing further research activities.

6. RTD performers shall grant access on a royalty-free basis, or on fair and reasonable conditions to be agreed prior to the signing of the grant agreement, to background needed to use the foreground generated in the indirect action.

Article 51

Additional provisions regarding access rights for use for 'frontier' research actions and for actions for the benefit of specific groups

1. Participants in the same 'frontier' research action shall enjoy royalty-free access rights to foreground and background for implementation or for the purposes of pursuing further research activities.

Access rights for use for purposes other than those of pursuing further research activities shall be royalty free unless otherwise provided in the grant agreement.

2. Where the specific group benefiting from the action is represented by a legal entity that participates in the action in their place, that legal entity may grant a sub-licence, in respect of any access right granted to it, to those of its members which are established in a Member State or an associated country.

CHAPTER IV

EUROPEAN INVESTMENT BANK

Article 52

1. The Community may award a contribution to the European Investment Bank (EIB) to cover the risk for loans granted or guarantees given by the EIB in support of research objectives set out under the Seventh Framework Programme (the Risk-Sharing Finance Facility).

2. The EIB shall provide these loans or guarantees in accordance with the principles of fairness, transparency, impartiality and equal treatment.

3. The Commission has the right to object to the use of the Risk-Sharing Finance Facility for certain loans or guarantees, on terms to be defined in the grant agreement in accordance with the Work Programmes.

CHAPTER V

ENTRY INTO FORCE

Article 53

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

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

Done at Brussels, 18 December 2006

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council

The President

M. VANHANEN

ANNEX

PARTICIPANT GUARANTEE FUND

1. The Fund will be managed by the Community represented by the Commission acting as executive agent on behalf of the participants, under conditions to be established by the model grant agreement.

The Commission will entrust the financial management of the Fund either to the European Investment Bank or, in accordance with Article 14, point (b), to an appropriate financial institution (hereinafter 'the depository bank'). The depository bank shall manage the Fund pursuant to a brief by the Commission.

2. The Commission may offset, from the initial pre-financing that it will pay to the consortium, the participants' contribution to the Fund, and pay it on their behalf to the Fund.
3. Where amounts are due to the Community by a participant, the Commission may, without prejudice to penalties which may be imposed on the defaulting participant in accordance with the Financial Regulation, either:
 - (a) order the depository bank to directly transfer the amount due from the Fund to the coordinator of the indirect action if it is still on-going and the remaining participants agree to implement it to the identical regarding its objectives, in accordance with Article 18(4). Amounts transferred from the Fund will be regarded as Community financial contribution; or
 - (b) recover effectively the said amount from the Fund should the indirect action be terminated or already completed.

The Commission will emit to the benefit of the Fund a recovery order against that participant. The Commission may adopt to that end a recovery decision in accordance with the Financial Regulation.

4. The amounts recovered from the Fund during the Seventh Framework Programme will constitute revenue assigned to it within the meaning of Article 18(2) of the Financial Regulation.

Once the implementation of all grants under the Seventh Framework Programme is complete, any sums outstanding from the Fund will be recovered by the Commission and entered into the budget of the Community, subject to decisions on the Eighth Framework Programme

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 18 December 2006

concerning the Seventh Framework Programme of the European Atomic Energy Community (Euratom) or nuclear research and training activities (2007 to 2011)

(2006/969/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 7 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament ⁽¹⁾,

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

Whereas:

- (1) Joint national and European efforts in the area of research and training are essential to promote and ensure economic growth and citizen's wellbeing in Europe.
- (2) The Seventh Framework Programme should complement other EU actions in the area of the research policy that are necessary for the implementation of the Lisbon strategy, in particular those on education, training, competitiveness and innovation, industry, employment, and environment.
- (3) The Seventh Framework Programme builds on the achievements of its predecessor towards the creation of the European Research Area and carries them further towards the development of the knowledge economy and society in Europe.
- (4) The Commission Green Paper 'Towards a European strategy for energy supply' highlights the contribution of nuclear power to reducing emissions of greenhouse gases and to reducing Europe's dependence on imported energy.
- (5) On 24 August 2005, the Commission submitted the conclusions of an external assessment of the implementation and results of the Community activities in this field carried out in the five years preceding that assessment, accompanied by its observations.

(6) With reference to the Council Decision of 26 November 2004 amending the directives of negotiations on International Thermonuclear Experimental Reactor (ITER), the realisation of ITER in Europe, within a broader approach to fusion energy, should be the central feature of the activities on fusion research carried out under the Seventh Framework Programme.

(7) Implementation of the Seventh Framework Programme may give rise to the setting up of joint undertakings within the meaning of Articles 45 to 51 of the Treaty.

(8) Research activities supported by the Seventh Framework Programme should comply with fundamental ethical principles, including those reflected in the Charter of Fundamental Rights of the European Union. The opinions of the European Group on Ethics in Science and New Technologies are and will be taken into account.

(9) This Decision establishes, for the entire duration of the programme, a financial envelope which constitutes 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 ⁽³⁾, for the budgetary authority during the annual budgetary procedure.

(10) It is important to ensure sound financial management of the Seventh Framework Programme and its implementation in the most effective and user-friendly manner possible, as well as ease of access for all participants.

(11) Under the Seventh Framework Programme, due regard should be paid to the role of women in science and research with a view to further enhancing their active role in research.

⁽¹⁾ Opinion of 15 June 2006 (not yet published in the Official Journal).

⁽²⁾ OJ C 65, 17.3.2006, p. 9.

⁽³⁾ OJ C 139, 14.6.2006, p. 1.

- (12) The Joint Research Centre (JRC) should contribute to providing customer-driven scientific and technological support for the formulation, development, implementation and monitoring of Community policies. In this regard, it is useful that the JRC continues to function as an independent reference centre of science and technology in the EU in the areas of its specific competence.
- (13) The international and global dimension in European research activities is important in the interest of obtaining mutual benefits. The Seventh Framework Programme should be open to the participation of countries having concluded the necessary agreements to this effect, and should also be open, on the project level and on the basis of mutual benefit, to the participation of entities from third countries and that of international organisations for scientific cooperation.
- (14) The Seventh Framework Programme should contribute to the enlargement of the European Union by bringing scientific and technological support to the candidate countries for the implementation of Community *acquis* and for their integration into the European Research Area.
- (15) 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 Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ⁽¹⁾, Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽²⁾ and Council Regulation (Euratom) No 1074/1999 of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽³⁾.
- (16) The Scientific and Technical Committee has been consulted by the Commission and has delivered its opinion,

HAS DECIDED AS FOLLOWS:

Article 1

Adoption of the Seventh Framework Programme

A multiannual framework programme for nuclear research and training activities, hereinafter referred to as the 'Seventh Frame-

work Programme', is hereby adopted for the period from 1 January 2007 to 31 December 2011.

Article 2

Objectives

1. The Seventh Framework Programme shall pursue the general objectives set out in Article 1 and Article 2(a) of the Treaty, while contributing towards the creation of a knowledge-based society, building on the European Research Area.

2. The Seventh Framework Programme shall comprise Community research, technological development, international cooperation, dissemination of technical information and exploitation activities as well as training, to be set out in two specific programmes.

The first specific programme shall cover the following:

- (a) fusion energy research, with the objective of developing the technology for a safe, sustainable, environmentally responsible and economically viable energy source;
- (b) nuclear fission and radiation protection, with the objective of enhancing in particular the safety performance, resource efficiency and cost-effectiveness of nuclear fission and other uses of radiation in industry and medicine.

The second specific programme shall cover the activities of the Joint Research Centre (JRC) in the field of nuclear energy.

3. The broad lines of the specific programmes are described in Annex I.

Article 3

Maximum overall amount and shares assigned to each programme

1. The maximum overall amount for the implementation of the Seventh Framework Programme for the period 2007 to 2011 shall be EUR 2 751 million. That amount shall be distributed as follows (in EUR million):

Fusion energy research ⁽¹⁾	1 947
Nuclear fission and radiation protection	287
Nuclear activities of the JRC	517

⁽¹⁾ Within the amount foreseen for fusion energy research, at least EUR 900 million will be reserved to activities other than the construction of ITER, listed in Annex I.

2. The detailed rules for Community financial participation in the Seventh Framework Programme are set out in Annex II.

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

⁽²⁾ OJ L 292, 15.11.1996, p. 2.

⁽³⁾ OJ L 136, 31.5.1999, p. 8.

*Article 4***Protection of the Communities' financial interests**

For Community actions financed under this Decision, Regulations (EC, Euratom) No 2988/95 and (Euratom, EC) No 2185/96 shall apply to any infringement of a provision of Community law, including infringement of a contractual obligation stipulated on the basis of the Seventh 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.

*Article 5***Fundamental ethical principles**

All the research activities carried out under the Seventh Framework Programme shall be carried out in compliance with fundamental ethical principles.

*Article 6***Monitoring, assessment and review**

1. The Commission shall continually and systematically monitor the implementation of the Seventh Framework Programme and its specific programmes and regularly report and disseminate the results of this monitoring.
2. Not later than 2010, the Commission shall carry out, with the assistance of external experts, an evidence-based interim

evaluation of the Seventh Framework Programme and its specific programmes building upon the ex-post evaluation of the Sixth Framework Programme. This evaluation shall cover the quality of the research activities taking place, as well as the quality of implementation and management, and the progress towards the objectives set.

3. Following the completion of the Seventh Framework Programme, the Commission shall cause to be carried out an external evaluation by independent experts of its rationale, implementation and achievements.

The Commission shall communicate the conclusions thereof, accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

*Article 7***Entry into force**

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

Done at Brussels, on 18 December 2006

For the Council

The President

J.-E. ENESTAM

ANNEX I

SCIENTIFIC AND TECHNOLOGICAL OBJECTIVES, THEMES AND ACTIVITIES

INTRODUCTION

The Seventh Framework Programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities is organised in two parts corresponding to the 'indirect' actions on fusion energy research and nuclear fission and radiation protection, and the 'direct' research activities of the JRC.

I.A. FUSION ENERGY RESEARCH

Objective

Developing the knowledge base for, and realising ITER as the major step towards, the creation of prototype reactors for power stations which are safe, sustainable, environmentally responsible, and economically viable.

Rationale

There are serious shortcomings in Europe's energy supply with respect to short, medium, and long-term considerations. In particular, measures are needed to address the issues of security of supply, climate change, and sustainable development, while ensuring that future economic growth is not threatened.

In addition to the efforts which the EU is making in the field of research into renewable energies, fusion has the potential to make a major contribution to the realisation of a sustainable and secure energy supply for the EU a few decades from now after the market penetration of commercial fusion reactors. Its successful development would provide energy which is safe, sustainable and environmentally friendly. The long-term goal of European fusion research, embracing all the fusion activities in the Member States and associated third countries, is the joint creation, in approximately thirty or thirty-five years and subject to technological and scientific progress, of prototype reactors for power stations which meet these requirements, and are economically viable.

The strategy to achieve the long-term goal entails, as its first priority, the construction of ITER (a major experimental facility which will demonstrate the scientific and technical feasibility of fusion power), followed by the construction of DEMO, a 'demonstration' fusion power station. This will be accompanied by a dynamic programme of supporting R&D for ITER and for the developments in fusion materials, technologies and physics required for DEMO. This would involve European industry, the fusion associations and third countries, in particular parties to the ITER Agreement.

Activities1. *The realisation of ITER*

This includes activities for the joint realisation of ITER (as an international research infrastructure), in particular for site preparation, establishing the ITER Organisation and the European Joint Undertaking for ITER, management and staffing, general technical and administrative support, construction of equipment and installations and support for the project during construction.

2. *R&D in preparation of ITER operation*

A focused physics and technology programme will exploit the relevant facilities and resources in the fusion programme, i.e. JET and other magnetic confinement devices, existing, future or those under construction (Tokamaks, Stellarators, RFPs). It will assess specific key ITER technologies, consolidate ITER project choices, and prepare for ITER operation through experimental and theoretical activities.

3. *Technology activities in preparation of DEMO*

This entails the vigorous development of fusion materials and key technologies for fusion, including blankets, and the establishment of a dedicated project team to prepare for the construction of the International Fusion Materials Irradiation Facility (IFMIF) to qualify materials for DEMO. It will include irradiation testing and modelling of materials, studies of the DEMO conceptual design, and studies of the safety, environmental and socio-economic aspects of fusion energy.

4. R&D activities for the longer term

The activities will include further development of improved concepts for magnetic confinement schemes with potential advantages for fusion power stations (focussed on the completion of the construction of the W7-X stellarator device), theory and modelling aimed at a comprehensive understanding of the behaviour of fusion plasmas and coordination, in the context of a keep-in-touch activity, of Member States' civil research activities on inertial confinement.

5. Human resources, education and training

In view of the immediate and medium term needs of ITER, and for the further development of fusion, initiatives aimed at ensuring that adequate human resources will be available, in terms of numbers, range of skills and high-level training and experience will be pursued, in particular in relation to the physics and engineering of fusion.

6. Infrastructures

The construction of the international fusion energy research project ITER will be an element of the new research infrastructures with a strong European dimension.

7. Technology transfer processes

ITER will require new and more flexible organisational structures to enable the process of innovation and technological progress which it creates to be swiftly transferred to industry, so that the challenges can be met to enable European industry to become more competitive.

1.B. NUCLEAR FISSION AND RADIATION PROTECTION

Objective

Establishing a sound scientific and technical basis in order to accelerate practical developments for the safer management of long-lived radioactive waste, enhancing in particular the safety performance, resource efficiency and cost-effectiveness of nuclear energy and ensuring a robust and socially acceptable system of protection of man and the environment against the effects of ionising radiation.

Rationale

Nuclear power currently generates one third of all electricity consumed in the EU and, as the most significant source of base-load electricity that, during the operation of a nuclear power plant, does not emit CO₂, constitutes an important element in the debate on the means of combating climate change and reducing Europe's dependence on imported energy. The European nuclear sector as a whole is typified by cutting-edge technology and provides highly skilled employment for several hundred thousand people. More advanced nuclear technology could offer the prospect of significant improvements in efficiency and use of resources, at the same time ensuring even higher safety standards and producing less waste than current designs.

There are, however, important concerns that affect the continued use of this energy source in the EU. Efforts are still required to ensure a continuation of the Community's outstanding safety record and the improvement of radiation protection continues to be a priority area. The key issues are operational reactor safety and management of long-lived waste, both of which are being addressed through continued work at the technical level, though allied political and societal inputs are also required. In all uses of radiation, throughout industry and medicine alike, the overriding principle is the protection of man and the environment. All thematic domains to be addressed here are characterised by an overriding concern to ensure high levels of safety. Similarly there are clearly identifiable needs throughout nuclear science and engineering relating to availability of research infrastructures and expertise. In addition, the individual technical areas are linked by key cross-cutting topics such as the nuclear fuel cycle, actinide chemistry, risk analysis and safety assessment and even societal and governance issues.

Research will also be needed to explore new scientific and technological opportunities and to respond in a flexible way to new policy needs that arise during the course of the Seventh Framework Programme.

Activities

1. Management of radioactive waste

Implementation-oriented research and development activities on all remaining key aspects of deep geological disposal of spent fuel and long-lived radioactive waste and, as appropriate, demonstration of the technologies and safety, and to underpin the development of a common European view on the main issues related to the management and disposal of waste. Research on partitioning and transmutation and/or other concepts aimed at reducing the amount and/or hazard of the waste for disposal.

2. *Reactor systems*

Research to underpin the continued safe operation of all relevant types of existing reactor systems (including fuel cycle facilities), taking into account new challenges such as life-time extension and development of new advanced safety assessment methodologies (both the technical and human element) including as regards severe accidents, and to assess the potential, the safety and waste-management aspects of future reactor systems, in the short and medium term, thereby maintaining the high safety standards already achieved within the EU and considerably improving the long-term management of radioactive waste.

3. *Radiation protection*

Research, in particular on the risks from low doses, on medical uses and on the management of accidents, to provide a scientific basis for a robust, equitable and socially acceptable system of protection that will not unduly limit the beneficial and widespread uses of radiation in medicine and industry. Research to minimise the impact of nuclear and radiological terrorism and diversion of nuclear material.

4. *Infrastructures*

Supporting the availability of, and cooperation between, research infrastructures such as material test facilities, underground research laboratories, radiobiology facilities and tissue banks, necessary to maintain high standards of technical achievement, innovation and safety in the European nuclear sector.

5. *Human resources, mobility and training*

Supporting the retention and further development of scientific competence and human capacity (for instance through joint training activities) in order to guarantee the availability of suitably qualified researchers, engineers and employees in the nuclear sector over the longer term.

II. NUCLEAR ACTIVITIES OF THE JOINT RESEARCH CENTRE (JRC)

Objective

To provide customer driven scientific and technical support to the Community policy-making process in the nuclear field, ensuring support to the implementation and monitoring of existing policies while flexibly responding to new policy demands.

Rationale

The JRC supports the objectives of the European strategy for energy supply, in particular that of meeting the Kyoto objectives. The Community has a recognised competence in many aspects of nuclear technology, and this is built on a solid basis of past successes in the domain. The usefulness of the JRC in its support to Community policies and in its contribution to the new trends in nuclear research are based on its scientific expertise and its integration in the international scientific community and on cooperation with other research centres as well as dissemination of knowledge. The JRC has competent staff and state-of-the-art facilities to carry out recognised scientific and technical work, aiming at keeping European research at the forefront through the quality of its scientific and technical work. The JRC supports the policy of the Community to maintain basic competences and expertise for the future by giving access to its infrastructures to other researchers and by training young scientists and fostering their mobility, thus sustaining nuclear know-how in Europe. New demand has emerged in particular in the external relations and security-related policies. In these cases, in-house and secure information, analyses and systems are needed which cannot always be obtained on the market.

The nuclear activities of the JRC aim to satisfy the R&D requirements to support both Commission and Member States. The objective of this programme is to develop and assemble knowledge and to provide input to the debate on nuclear energy production, its safety and reliability, its sustainability and control, its threats and challenges, including the assessment of innovative and future systems.

Activities

The JRC activities will focus on:

- 1) nuclear waste management and environmental impact, aiming to understand the nuclear fuel processes from production of energy to waste disposal and to develop effective solutions for the management of high level nuclear waste following the two major options (direct disposal or partitioning and transmutation). Activities will also be developed to enhance knowledge and improve the processing or conditioning of long-lived waste and basic research into actinides;

- 2) nuclear safety, in implementing research on existing as well as on new fuel cycles and on reactor safety of both western and Russian reactor types as well as on new reactor design. In addition the JRC will contribute to, and coordinate, the European contribution to the Generation IV International Forum R&D initiative, in which the best research organisations in the world are involved. The JRC should act as integrator of research in this area with the aim of ensuring the quality of the European contribution to GIF. The JRC will contribute exclusively to those areas that can improve safety and safeguard aspects of innovative fuel cycles, in particular characterisation, test and analysis of new fuels; the development of safety and quality goals, safety requirements and advanced evaluation methods for systems;
- 3) nuclear security, in supporting the accomplishment of Community commitments, in particular the control of the fuel cycle facilities emphasising the back-end of the fuel cycle, the monitoring of the radioactivity in the environment, or the implementation of the additional protocol and the integrated safeguards, and the prevention of the diversion of nuclear and radioactive material associated with illicit trafficking in such material.

In addition, the JRC will facilitate fact-based debate and informed decision-making on the energy mix appropriate to meet the European energy needs (including renewable sources of energy and nuclear power).

ANNEX II

FUNDING SCHEMES

Subject to the rules for participation established for the implementation of the Seventh Framework Programme, the Community will support research and technological development activities, including demonstration activities in the specific programmes, through a range of funding schemes. These schemes will be used, either alone or in combination, to fund different categories of actions implemented throughout the Seventh Framework Programme.

1. FUNDING SCHEMES IN FUSION ENERGY

In the field of fusion energy research, the particular nature of the activities in the area necessitates the implementation of specific arrangements. Financial support will be given to activities carried out on the basis of procedures set out in:

- 1.1. the Contracts of Association, between the Commission and Member States or fully associated third countries or entities within Member States or fully associated third countries which provide for the execution of part of the Community fusion energy research programme according to Article 10 of the Treaty;
- 1.2. the European Fusion Development Agreement (EFDA), a multilateral agreement concluded between the Commission and organisations in, or acting for, Member States and associated third countries providing *inter alia* the framework for further research on fusion technology in associated organisations and in industry, use of the JET facilities and the European contribution to international cooperation;
- 1.3. the European Joint Undertaking for ITER, based on Articles 45 to 51 of the Treaty;
- 1.4. international agreements between Euratom and third countries covering activities in the field of fusion energy research and development, in particular the ITER Agreement;
- 1.5. any other multilateral agreement concluded between the Community and associated organisations, in particular the Agreement on Staff Mobility;
- 1.6. cost-sharing actions to promote and contribute to fusion energy research with bodies in the Member States or the third countries associated with the Seventh Framework Programme in which there is no Contract of Association.

In addition to the above activities, actions to promote and develop human resources, fellowships, integrated infrastructure initiatives as well as specific support actions may be undertaken in particular to coordinate fusion energy research, to undertake studies in support of these activities and to support publications, information exchange, and training in order to promote technology transfer.

2. FUNDING SCHEMES IN OTHER FIELDS

The activities in fields other than fusion energy under the Seventh Framework Programme will be funded through a range of funding schemes. These schemes will be used, either alone or in combination, to fund different categories of actions implemented throughout the Seventh Framework Programme.

The decisions for specific programmes, work programmes and calls for proposals will mention, as and when appropriate:

- the type(s) of scheme(s) used to fund different categories of actions,
- the categories of participants (such as research organisations, universities, industry, public authorities) which can benefit from them,
- the types of activities (research, development, demonstration, training, dissemination, transfer of knowledge and other related activities) which can be funded through each of them.

Where different funding schemes can be used, the work programmes may specify the funding scheme to be used for the topic on which proposals are invited.

The funding schemes are the following:

- (a) To support actions which are primarily implemented on the basis of calls for proposals:

1. Collaborative projects

Support to research projects carried out by consortia with participants from different countries, aiming at developing new knowledge, new technology, products or common resources for research. The size, scope and internal organisation of projects can vary from field to field and from topic to topic. Projects can range from small or medium-scale focused research actions to larger integrating projects which mobilise a significant volume of resources for achieving a defined objective.

2. Networks of excellence

Support to joint research programmes implemented by a number of research organisations integrating their activities in a given field, carried out by research teams in the framework of longer-term cooperation. The implementation of these joint research programmes will require a formal commitment from the organisations integrating part of their resources and their activities.

3. Coordination and support actions

Support to activities aimed at coordinating or supporting research (networking, exchanges, studies, conferences, etc). These actions may also be implemented by means other than calls for proposals.

4. Actions to promote and develop human resources and mobility

Support for training and career development of researchers.

(b) To support actions implemented on the basis of decisions by the Council, based on a proposal from the Commission, the Community will provide financial support to multi-financed large-scale initiatives by the means of the following contributions:

- a financial contribution to the implementation of joint undertakings carried out on the basis of the procedures and provisions set out in Articles 45 to 51 of the Treaty,
- a financial contribution to the development of new infrastructures of European interest.

The Community will implement the funding schemes in compliance with the provisions of the Regulation to be adopted for the rules for participation of undertakings, research centres and universities, the relevant State aid instruments, in particular the Community framework for State aid to research and development, as well as international rules in this area. In compliance with this international framework, it will be necessary to be able to adjust the scale and form of financial participation on a case-by-case basis, in particular if funding from other public sector sources is available, including other sources of Community financing such as the European Investment Bank (EIB).

In the case of participants to an indirect action established in a region lagging in development (convergence regions ⁽¹⁾ and outermost regions), complementary funding from the Structural Funds will be mobilised wherever possible and appropriate.

3. DIRECT ACTIONS — JOINT RESEARCH CENTRE

The Community will undertake activities implemented by the JRC, which are referred to as direct actions.

⁽¹⁾ Convergence regions are defined in Article 5 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 (OJ L 210, 31.7.2006, p. 25). This includes regions eligible for funding from the Structural Funds under the Convergence objective and regions eligible for funding from the Cohesion Fund.