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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

AGREEMENT

between the European Union and the State of Israel on the participation of the State of Israel in the Union programme 'Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)'

THE EUROPEAN COMMISSION, hereinafter referred to as 'the Commission', on behalf of the European Union,
of the one part, and

THE GOVERNMENT OF THE STATE OF ISRAEL, hereinafter referred to as Israel,
of the other part, hereinafter referred to as the 'Parties',

Whereas:

- (1) The Protocol ⁽¹⁾ to the Euro-Mediterranean Agreement ⁽²⁾ between the European Communities and their Member States, of the one part, and the State of Israel, of the other part on a Framework Agreement between the European Community and the State of Israel on the general principles governing the State of Israel's participation in Community Programmes, hereinafter referred to as the 'Protocol', establishes the general principles for the participation of Israel in Union programmes, leaving the Commission and the competent authorities of Israel to determine the specific terms and conditions, including financial contributions, with regard to such participation in each particular programme.
- (2) The Horizon 2020 Programme was established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽³⁾.
- (3) Horizon 2020 should contribute to achieving the European Research Area.
- (4) Pursuant to Article 7 of Regulation (EU) No 1291/2013, specific terms and conditions regarding the participation of associated countries in Horizon 2020, including the financial contribution, based on the gross domestic product of the associated country shall be determined by an international agreement between the Union and the associated country,

HAVE AGREED AS FOLLOWS:

Article 1

Scope

Israel shall participate in 'Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)', (hereinafter referred to as the 'Programme'), in accordance with the conditions laid down in the Protocol, and under the terms and conditions set forth in this Agreement.

⁽¹⁾ OJ L 129, 17.5.2008, p. 40.

⁽²⁾ OJ L 147, 21.6.2000, p. 3.

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

*Article 2***Terms and conditions of participation in the Programme**

1. Israel shall participate in the activities of the Programme in conformity with the objectives, criteria and procedures defined in Regulation (EU) No 1291/2013, Regulation (EU) No 1290/2013 of the European Parliament and of the Council ⁽¹⁾, including delegated acts and any other subsequent rules, Council Decision 2013/743/EU ⁽²⁾ and any other rule pertaining to the implementation of the Programme.

The Regulation (EC) No 294/2008 of the European Parliament and of the Council ⁽³⁾ as amended by the Regulation (EU) No 1292/2013 of the European Parliament and of the Council ⁽⁴⁾ shall apply to participation of Israeli legal entities in Knowledge and Innovation Communities.

In case the Union makes provisions for the implementation of Article 185 and 187 of the Treaty on the Functioning of the European Union, Israel shall be allowed to participate in the legal structures created under these provisions, in conformity with the decisions and regulations that have been or will be adopted for the establishment of these legal structures.

2. Eligible Israeli entities shall participate in direct actions of the Joint Research Centre and in indirect actions of the Programme under the same conditions as those applicable to legal entities of Member States of the European Union.

3. In relation to eligible Israeli entities the terms and conditions applicable for the evaluation of proposals and those for the conclusion of grant agreements and the notification of grant decisions shall be the same as those applicable for grant agreements and grant decisions in respect of research entities in the Union.

4. One of the official languages of the Union, in this case English, shall be used for the procedures related to requests, grant agreements and reports, as well as for other legal and administrative aspects of the Programme.

5. Representatives of Israel shall be allowed to take part, as observers in the committees responsible for monitoring the measures of the Programme to which Israel contributes financially, and in respect of agenda points concerning measures in which Israel participates.

These committees shall meet without the presence of the representatives of Israel at the time of voting. Israel will be informed of the result.

Participation as referred to in this paragraph shall take the same form, including procedures for receipt of information and documentation, as that applicable to representatives from Member States of the European Union.

6. Representatives of Israel shall participate as observers in the Board of Governors of the Joint Research Centre. Participation as referred to in this paragraph shall take the same form, including procedures for receipt of information and documentation, as that applicable to representatives from Member States of the European Union.

7. Travel costs and subsistence costs incurred by representatives and experts of Israel for the purposes of taking part as observers in the work of the committee referred to in Article 10(1) of Decision 2013/743/EU establishing the Specific Programme Implementing Horizon 2020, or other meetings related to the implementation of the Programme, shall be reimbursed by the Commission on the same basis as and in accordance with the procedures currently in force for representatives of the Member States of the European Union.

*Article 3***Financial contribution**

To participate in the Programme, Israel shall every year pay a financial contribution to the General Budget of the European Union in accordance with Annex I of this Agreement.

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

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

⁽³⁾ Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology (OJ L 97, 9.4.2008, p. 1).

⁽⁴⁾ Regulation (EU) No 1292/2013 of the European Parliament and of the Council of 11 December 2013 amending Regulation (EC) No 294/2008 establishing the European Institute of Innovation and Technology (OJ L 347, 20.12.2013, p. 174).

The financial contribution of Israel in respect of its participation and implementation of the Programme shall be added to the annual allocation in the General Budget of the European Union for commitment appropriations to meet the financial obligations arising out of different forms of measures necessary for the execution, management and operation of the Programme.

Article 4

Reporting and evaluation

The rules governing the reporting and evaluations concerning the participation of Israel in the Programme are set out in Annex II of this Agreement.

Article 5

Joint EU-Israel Committee

1. The Joint EU-Israel Committee composed of the representatives of the European Commission and Israel is hereby established.
2. The Committee's functions shall include the following:
 - (a) To ensure, evaluate and review the implementation of this Agreement.
 - (b) To ensure and facilitate the timely and continuous provision of information concerning the implementation of activities under the Horizon 2020 Programme.
3. The Committee's work shall be complementary to and consistent with the work of the relevant bodies of bilateral dialogue and cooperation established by the EU-Israel Association Council.
4. The Committee shall meet upon the request of one of the Parties. The Committee will work on an on-going basis through exchange of documents, e-mails and other means of communication. The Committee shall adopt its rules of procedure.

Article 6

Final provisions

1. In accordance with EU policy, this agreement shall not apply to the geographic areas that came under the administration of the State of Israel after 5 June 1967. This position should not be construed as prejudicing Israel's principled position on this matter. Accordingly, the Parties agree that the application of this agreement is without prejudice to the status of those areas.
2. This Agreement enters into force on the date when the Parties notified each other of the completion of their internal procedures to that purpose. It becomes applicable from 1 January 2014. Israel's participation in the subsequent multi-annual research programme of the Union, if Israel so requests, may be subject to a new Agreement to be agreed between the Parties.
3. This Agreement can be terminated by the Parties at any time during the duration of the Programme by a written notice informing of the intent to terminate participation in the Programme.

Notwithstanding the preceding sentence, should the Protocol to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel of the other part, on a Framework Agreement between the European Community and the State of Israel on the general principles governing the State of Israel's participation in Community programmes cease to apply, this Agreement shall cease to apply on the same day without any prior written notice needed to this purpose.

4. Subject to the provisions hereunder, termination shall take effect three calendar months after the date at which the written notice reaches its addressee.

The expiry and/or termination and/or cessation of application of this Agreement shall not affect:

- (a) Any projects or activities in progress,
- (b) The implementation of any contractual arrangements applying to these projects and activities as set forth in paragraph 4(a) above.

5. If this Agreement is terminated or ceases to apply:
 - (a) For the year during which the Agreement ceases to apply, Israel shall pay the financial contribution proportionally to the number of months of its participation in the Programme during that year. For the purpose of calculating such a contribution, the month that has commenced at the time of receipt of the notification pursuant to the first sentence of paragraph 3 or when the Agreement ceases to apply pursuant to the second sentence of paragraph 3 shall be counted as a full month.
 - (b) The Union shall reimburse to Israel the part of its contribution, already paid to the general budget of the European Union that will not be spent because of the termination and/or cessation of application of this Agreement.
6. The Annexes form an integral part of this Agreement.
7. This Agreement may only be amended in writing by common consent of the Parties. Any such amendment shall enter into force in accordance with the procedure set forth in paragraph (2) of this Article.

Done in Jerusalem on the 8th of June in the year two thousand and fourteen, which corresponds to the 10th day of Sivan in the year five thousand, seven hundred and seventy four in the Hebrew calendar in two originals, in English and Hebrew, each of those texts being equally authentic.

For the Government of Israel

Yaakov PERRY

For the Commission,

On behalf of the European Union,

Lars FAABORG-ANDERSEN

ANNEX I

RULES GOVERNING THE FINANCIAL CONTRIBUTION OF ISRAEL TO 'HORIZON 2020 — THE FRAMEWORK PROGRAMME FOR RESEARCH AND INNOVATION (2014-2020)'**I. Calculation of Israel's financial contribution**

1. The financial contribution of Israel to the Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the general budget of the European Union for commitment appropriations needed for the implementation, management and operation of the Programme.
2. The proportionality factor governing the contribution of Israel shall be obtained by establishing the ratio between the gross domestic product of Israel, at market prices, and the sum of gross domestic products, at market prices, of the Member States of the European Union. This ratio shall be calculated on the basis of the latest statistical data pertaining to the same year from the International Bank for Reconstruction and Development, available at the time of publication of the draft budget of the European Union.
3. The Commission shall communicate to Israel, as soon as possible, and at the latest on 1 September of the year before each financial year, the following information together with relevant background material:
 - the amounts in commitment appropriations, in the statement of expenditure of the draft budget of the European Union corresponding to the Programme,
 - the estimated amount of the contributions derived from the draft budget, corresponding to the participation of Israel in the Programme according to paragraphs 1, 2 and 3.

Once the general budget has been finally adopted, the Commission shall communicate to Israel, in the statement of expenditure corresponding to Israel's participation, the final amounts referred to in the first subparagraph.

4. In the fourth year after this Agreement becomes applicable, the Parties shall review the proportionality factor governing the financial contribution of Israel, on the basis of the data concerning participation of Israeli legal entities in indirect and direct actions under the Programme in the years 2014-2016.

II. Payment of Israel's financial contribution

1. The Commission shall issue, at the latest in January and June of each financial year, a call for funds to Israel corresponding to its contribution under this Agreement. These calls for funds shall provide, respectively, for the payment of six-twelfths of Israel's contribution not later than 90 days after receipt of the calls for funds. However, the six-twelfths to be paid not later than 90 days after receipt of the call issued in January shall be calculated on the basis of the amount set out in the statement of revenue of the draft budget: the regularisation of the amount thus paid shall occur with the payment of the six-twelfths not later than 90 days after receipt of the call for funds issued at the latest in June.

For the first year of implementation of this Agreement, the Commission shall issue a first call for funds within 30 days of its entry into force. Should this call be issued after 15 June, it shall provide for the payment of twelve-twelfths of Israel's contribution within 90 days, calculated on the basis of the amount set out in the statement of revenue of the budget.

2. The contribution of Israel shall be expressed and paid in euro. Payment by Israel shall be credited to the Union programmes as budgetary revenue allocated to the appropriate budget heading in the statement of revenue of the general budget of the European Union. Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽¹⁾ hereinafter referred to as the 'Financial Regulation' applicable to the general budget of the European Union shall apply to the management of the appropriations.
3. Israel shall pay its contribution under this Agreement according to the schedule in paragraph 1. Any delay in the payment of the contribution shall give rise to the payment of default interest by Israel on the outstanding amount from the due date. The interest rate shall be the rate applied by the European Central Bank to its main refinancing operations in euro on the due date, increased by 1,5 percentage points.

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

In case the delay in the payment of the contribution is such that it may significantly jeopardise the implementation and management of the Programme, participation in the Programme of Israel for the concerned financial year will be suspended by the Commission following the absence of payment 20 working days after a formal letter of reminder sent to Israel, without prejudice to the Union's obligations according to grant agreements and/or contracts already concluded pertaining to the implementation of selected indirect actions.

4. At the latest on 30 June of the year following a financial year, the statement of appropriations for the Programme that financial year shall be prepared and transmitted to Israel for information, according to the format of the Commission's revenue and expenditure account.
 5. The Commission, at the time of the closure of the accounts relating to each financial year, within the framework of the establishment of the revenue and expenditure account, shall proceed to the regularisation of the accounts with respect to the participation of Israel. This regularisation shall take into consideration modifications which have taken place, either by transfer, cancellations, carryovers, de-commitments, or by supplementary and amending budgets during the financial year. This regularisation shall occur at the time of the second payment for the next financial year, and for the last financial year in July 2021. Further regularisation shall occur every year until July 2023.
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ANNEX II

FINANCIAL CONTROL OF ISRAELI PARTICIPANTS IN THE PROGRAMMES COVERED BY THIS AGREEMENT**I. Direct Communication**

The Commission shall communicate directly with the participants in the Programme established in Israel and with their subcontractors. They may submit directly to the Commission all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Agreement and of the grant agreements and/or contracts concluded to implement them.

II. Audits

1. In accordance with Regulation (EU, Euratom) No 966/2012 (hereinafter referred to as the 'Financial Regulation') and to Commission Delegated Regulation (EU) No 1268/2012 ⁽¹⁾ (hereinafter referred to as the 'Rules of Application') and with the other rules referred to in this Agreement, the grant agreements and/or contracts concluded with participants in the Programme established in Israel may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the participants and of their subcontractors by Commission agents or by other persons mandated by the Commission.
2. Commission agents, the European Court of Auditors and other persons mandated by the Commission shall have appropriate access to sites, works and documents (both electronic and paper versions) and to all the information required in order to carry out such audits on the spot subject to the inclusion of this right of access that shall be stated explicitly in the grant agreements and/or contracts concluded to implement the instruments referred to in this Agreement with participants from Israel. The non-provision of such rights would be regarded as a failure to substantiate costs and, consequently, as a potential breach of the grant agreements.
3. The audits may be conducted after the Programme or this Agreement expire, on the terms laid down in the grant agreements and/or contracts in question. Any audit performed after the expiration of either the Programme or this Agreement shall be conducted in accordance with the terms set forth in this Annex II.

III. On-The-Spot Checks by OLAF

1. Within the framework of this Agreement, the Commission (OLAF) shall be authorised to carry out on-the-spot checks and inspections in the premises of participants and their subcontractors from Israel, in accordance with the terms and conditions laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽²⁾.
2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close collaboration with the competent Israeli authority designated by the Israeli government.

For the purposes of this paragraph of this Annex II, in civil or administrative issues the designated Israeli Authority shall be the Office of the Chief Scientist of the Ministry of Economy. However, request for the performance of investigative acts, inspections and the obtaining of documents in connection with a criminal matter or investigation, shall be carried out in accordance with the provisions of the International Legal Assistance Law 5758-1998. With respect to issues relating to such requests, the designated Israeli Authority shall be the Department of International Affairs of the Office of the State's Attorney in the Israeli Ministry of Justice. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that they can provide assistance. To that end, the officials of the competent Israeli authorities may participate in the on-the-spot checks and inspections.

3. If the Israeli authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and them.
4. Where the participants in the Programme resist an on-the-spot check or inspection, the Israeli authorities, acting in accordance with national rules and regulations, shall assist the Commission inspectors, to a reasonable extent as needed to allow them to fulfil their duty in carrying out an on-the-spot check or inspection.

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

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

5. The Commission shall report as soon as possible to the competent Israeli authority any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any case the Commission shall be required to inform the abovementioned authority of the result of such checks and inspections.

IV. Information and Consultation

1. For the purposes of proper implementation of this Annex, the competent Israeli and Union authorities shall regularly exchange information, unless forbidden or unauthorized by national rules and regulations and, at the request of one of the Parties, shall conduct consultations.
2. The competent Israeli authorities shall inform the Commission within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the grant agreements and/or contracts concluded in application of the instruments referred to in this Agreement.

V. Confidentiality

Information communicated or acquired in any form under this Annex shall be covered by professional secrecy and protected in the same way as similar information is protected by Israeli law and by the corresponding provisions applicable to the Union's institutions. Such information may not be communicated to persons other than those within the Union's institutions or in the Member States or Israel whose functions legally require them to know it, nor may it be used for purposes other than to ensure effective protection of the Parties' financial interests ⁽¹⁾.

VI. Administrative Measures and Penalties

Without prejudice to application of Israeli criminal law, administrative measures and penalties may be imposed by the Commission in accordance with Regulation (EU, Euratom) No 966/2012, Delegated Regulation (EU) No 1268/2012 and Council Regulation (EC, Euratom) No 2988/95 ⁽²⁾.

VII. Recovery and Enforcement

Decisions taken by the Commission under the Programmes covered by this Agreement which impose a pecuniary obligation on persons other than States shall be enforceable in Israel. If so requested by the Commission, the authority designated by the Government of the State of Israel shall commence proceedings for the enforcement of the decision on behalf of the Commission. In this case, the decision of the Commission shall be submitted to the Israeli Court, without other formality than verification of the authenticity of the decision, by the authority designated for this purpose by the Government of the State of Israel, which shall inform the Commission thereof. Enforcement shall take place in accordance with the Israeli law and rules of procedure. The relevant enforcement provisions shall be incorporated in the grant agreements and/or contracts with participants from Israel. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission and suspend its enforcement. Moreover, the courts of Israel shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

⁽²⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ L 312, 23.12.1995, p. 1).

REGULATIONS

COUNCIL REGULATION (EU) No 642/2014

of 16 June 2014

establishing the Shift2Rail Joint Undertaking

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Whereas:

- (1) The Europe 2020 Strategy: A strategy for smart, sustainable and inclusive growth' underscores the need to develop favourable conditions for investment in knowledge and innovation, including eco-innovation, so as to achieve smart, sustainable and inclusive growth in the Union.
- (2) The Commission White Paper on a Roadmap to a Single European Transport Area, of 28 March 2011 (the 'White Paper'), emphasised the need to create a Single European Railway Area to achieve a more competitive and resource-efficient Union transport system, and to address major societal issues such as rising traffic demand, congestion, security of energy supply and climate change. It added that innovation will be essential for this strategy and that Union research needs to address the full cycle of research, innovation and deployment in an integrated way through focusing on the most promising technologies and bringing together all actors involved.
- (3) The Framework Programme for Research and Innovation 2014-2020 ('Horizon 2020') established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council ⁽³⁾ aims to achieve a greater impact of research and innovation efforts by combining Union and private-sector funds in public-private partnerships (PPPs) in areas where research and innovation can contribute to the Union's wider competitiveness goals, leverage private investment, and help tackle societal challenges. Those partnerships should be based on a long-term commitment, including a balanced contribution from all partners, be accountable for the achievement of their objectives and be aligned with the Union's strategic goals relating to research, development and innovation. The governance and functioning of those partnerships should be open, transparent, effective and efficient and give the opportunity to a wide range of stakeholders active in their specific areas to participate. Union involvement in these partnerships can take the form of financial contributions to joint undertakings established on the basis of Article 187 of the Treaty on the Functioning of the European Union (TFEU).
- (4) In accordance with Regulation (EU) No 1291/2013 and Council Decision 2013/743/EU ⁽⁴⁾ support may be provided to joint undertakings established pursuant to Horizon 2020 under the conditions specified in that Decision.

⁽¹⁾ Opinion of 25 March 2014 (not yet published in the Official Journal).

⁽²⁾ Opinion of 15 April 2014 (not yet published in the Official Journal).

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

⁽⁴⁾ Council Decision 2013/743/EU of 3 December 2013 establishing the specific programme implementing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965).

- (5) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled 'Public-private partnerships in Horizon 2020: a powerful tool to deliver on innovation and growth in Europe' identified specific public-private partnerships to be supported, including the five Joint Technology Initiative joint undertakings and the SESAR (Single European Sky ATM Research) Joint Undertaking. In addition, it called for a joint undertaking in the railway sector, given the scale of research and innovation efforts required to build Union leadership in rail technologies and the policy need to complete the Single European Railway Area.
- (6) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled 'The Fourth Railway Package — Completing the Single European Railway Area to foster Union competitiveness and growth (the "Fourth Railway Package")' highlighted the need for a joint undertaking in the railway sector to help develop rail as a mode of transport by promoting step-change innovations for passenger rolling stock, freight transport, traffic management systems and rail infrastructure. It stressed the importance of achieving better value for money in rail given the scarcity of public funds, as result of the creation of a single market, and called for a more European approach to rail in order to facilitate modal shift from road and air.
- (7) The Shift2Rail Joint Undertaking (the 'S2R Joint Undertaking') should be a PPP aimed at stimulating and better coordinating Union research and innovation investments in the rail sector with a view to accelerating and facilitating the transition towards a more integrated, efficient, sustainable and attractive Union railway market, in line with the business needs of the rail sector and with the general objective of achieving a Single European Railway Area. In particular, the S2R Joint Undertaking should contribute to specific objectives defined in the White Paper and in the Fourth Railway Package, including the improved efficiency of the rail sector for the benefit of the public purse; a considerable expansion or upgrading of the capacity of the rail network, so as to enable rail to compete effectively and take a significantly greater proportion of passenger and freight transport; an improvement in the quality of rail services by responding to the needs of rail passengers and freight forwarders; the removal of technical obstacles holding back the sector in terms of interoperability; and the reduction of negative externalities linked to railway transport. The progress of the S2R Joint Undertaking towards meeting these objectives should be measured against key performance indicators.
- (8) The rules for the organisation and operation of the S2R Joint Undertaking should be laid down in the Statutes of the S2R Joint Undertaking as part of this Regulation.
- (9) The founding members of the S2R Joint Undertaking should be the Union, represented by the Commission, and the founding members other than the Union, listed in Annex II to this Regulation, on the condition that they accept the Statutes of the S2R Joint Undertaking. Those founding members other than the Union are financially sound single legal entities who have the financial capacity and have expressed their agreement, in writing, following intensive stakeholder consultations, to make a major financial contribution to pursue the research activities in the area of the S2R Joint Undertaking, within a structure well adapted to the nature of a public-private partnership.
- (10) Substantial participation of industry is an essential element of the Shift2Rail initiative (the 'S2R initiative'). It is therefore fundamental that the public budget for the S2R initiative be at least matched by contributions from industry. Membership will therefore be open to other public or private entities willing to commit the necessary resources to carry out research and innovation activities in the area covered by the S2R Joint Undertaking.
- (11) The objective of the S2R Joint Undertaking should be to manage the research, development and validation activities of the S2R initiative by combining public and private sector funding provided by its members and by drawing on internal and external technical resources. It should establish new forms of collaboration, that are consistent with competition rules, between stakeholders from the entire rail value chain and from outside the traditional rail sector, and should bring in the experience and expertise of the European Railway Agency on issues relating to interoperability and safety.
- (12) In order to achieve its objectives, the S2R Joint Undertaking should provide financial support, mainly in the form of grants to members and through the most appropriate measures, such as procurement or the award of grants following calls for proposals.

- (13) The S2R Joint Undertaking should operate in an open and transparent way providing all relevant available information in a timely manner to its appropriate bodies as well as promoting its activities, including through information and dissemination activities to the wider public. The rules of procedure of the bodies of the Joint Undertaking should be made publicly available.
- (14) In light of the overall aim of Horizon 2020 to achieve greater simplification and coherence, all calls for proposals launched by the S2R Joint Undertaking should in principle take into account the duration of Horizon 2020.
- (15) The activities undertaken by the S2R Joint Undertaking are mainly research and innovation activities. Therefore, Union funding should be paid from Horizon 2020. To achieve maximum impact, the S2R Joint Undertaking should develop close synergies with other Union programmes and funding instruments and, in particular, with the Connecting Europe Facility or the Risk Sharing Funding Facility to support actions for the deployment of innovative solutions of the S2R Joint Undertaking. Furthermore, Horizon 2020 should contribute to the closing of the research and innovation divide within the Union by promoting synergies with the European Structural and Investment Funds (ESIF). Therefore the S2R Joint Undertaking should seek to develop close interactions with the ESIF, which can specifically help to strengthen local, regional and national research and innovation capabilities in the area of the S2R Joint Undertaking and underpin smart specialisation efforts.
- (16) Contributions from members other than the Union should be defined in a membership agreement with the S2R Joint Undertaking. These contributions should not be limited to only covering the administrative costs of the S2R Joint Undertaking and the co-financing required to carry out research and innovation actions supported by the S2R Joint Undertaking. Their contributions should also relate to additional activities to be undertaken by them, in order to ensure a strong leverage effect. Those additional activities should represent contributions to the broader S2R initiative.
- (17) Participation in indirect actions funded by the S2R Joint Undertaking should comply with Regulation (EU) No 1290/2013 of the European Parliament and of the Council ⁽¹⁾. The S2R Joint Undertaking should, moreover, ensure the consistent application of the rules laid down in that Regulation based on relevant measures adopted by the Commission.
- (18) The S2R Joint Undertaking should also use electronic means managed by the Commission to ensure openness, transparency and facilitate participation. Therefore, the calls for proposals launched by the S2R Joint Undertaking should also be published on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission. Moreover, relevant data on, inter alia, proposals, applicants, grants and participants should be made available by the S2R Joint Undertaking for inclusion in the Horizon 2020 reporting and dissemination electronic systems managed by the Commission, in an appropriate format and with the periodicity corresponding to the Commission's reporting obligations.
- (19) The Union financial contribution to the S2R Joint Undertaking should be managed in accordance with the principle of sound financial management and with the relevant rules on indirect management laid down in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽²⁾ and Commission Delegated Regulation (EU) No 1268/2012 ⁽³⁾.
- (20) Audits of recipients of Union funds under this Regulation should be carried out in such a manner that the administrative burden is reduced, in compliance with Regulation (EU) No 1291/2013.
- (21) The financial interests of the Union and of the other members of the S2R Joint Undertaking should be protected through proportionate measures throughout the expenditure cycle including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.

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

⁽²⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

⁽³⁾ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

- (22) The Commission's internal auditor should exercise the same powers over the S2R Joint Undertaking as those exercised in respect of the Commission.
- (23) In view of the specific nature and the current status of the Joint Undertakings, and in order to ensure continuity with the 7th Framework Programme, the S2R Joint Undertaking should continue to be subject to a separate discharge. By way of derogation from Article 60(7) and Article 209 of Regulation (EU, Euratom) No 966/2012, discharge for the implementation of the budget of the S2R Joint Undertaking should therefore be granted by the European Parliament on the recommendation of the Council. Hence, the reporting requirements set out in Article 60(5) of Regulation (EU, Euratom) No 966/2012 should not apply to the contribution of the Union to the S2R Joint Undertaking but they should be aligned to the extent possible to those foreseen for bodies under Article 208 of Regulation (EU, Euratom) No 966/2012. The auditing of accounts and of the legality and regularity of the underlying transactions should be undertaken by the Court of Auditors.
- (24) In order to facilitate the establishment of the S2R Joint Undertaking, the Commission should be responsible for the establishment and initial operation thereof until the S2R Joint Undertaking has the operational capacity to implement its own budget.
- (25) Since the objectives of this Regulation, namely the strengthening of industrial research and innovation across the Union by means of the implementation of the S2R initiative by the S2R Joint Undertaking, cannot be sufficiently achieved by the Member States, but can rather, by reason of avoiding duplication, retaining critical mass and ensuring that public financing is used in an optimal way, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAS ADOPTED THIS REGULATION:

Article 1

Establishment

1. In order to coordinate and manage Union research and innovation investments in the European rail sector, a joint undertaking within the meaning of Article 187 TFEU ('S2R Joint Undertaking') shall be established until 31 December 2024. In order to take into account the duration of Horizon 2020, calls for proposals by the S2R Joint Undertaking shall be launched by 31 December 2020 at the latest. In duly justified cases, calls for proposals may be launched until 31 December 2021.
2. The S2R Joint Undertaking shall constitute a body entrusted with the implementation of a public-private partnership referred to in Article 209 of Regulation (EU, Euratom) No 966/2012. The S2R Joint Undertaking shall be represented by its Executive Director.
3. The S2R Joint Undertaking shall have legal personality. In every Member State, it shall enjoy the most extensive legal capacity accorded to legal persons under the law of that State. It may acquire or dispose of movable and immovable property and may be a party to legal proceedings.
4. The seat of the S2R Joint Undertaking shall be located in Brussels, Belgium.
5. The Statutes of the S2R Joint Undertaking ('the Statutes') are set out in Annex I.

Article 2

Objectives

1. The S2R Joint Undertaking shall have the following general objectives:
 - (a) to contribute to the implementation of Regulation (EU) No 1291/2013 and in particular part of the Smart, Green and Integrated Transport Challenge under the Societal Challenges pillar of Decision No 2013/743/EU;

- (b) to contribute to the achievement of the Single European Railway Area, to a faster and less costly transition to a more attractive, user-friendly (including for persons with reduced mobility), competitive, efficient and sustainable European rail system, and to the development of a strong and globally competitive European rail industry. That will be achieved through a comprehensive and coordinated approach addressing the research and innovation needs of the rail system and its users facilitating amongst others a modal shift from road and air to rail. That approach shall cover rolling stock, infrastructure and traffic management for the market segments of freight and of long-distance, regional, local and urban passenger traffic, as well as intermodal links between rail and other modes, providing users with an integrated end-to-end solution for their rail travel and transport needs, from transaction support to en-route assistance;
- (c) to establish and develop — and ensure the effective and efficient implementation of — a strategic Master Plan (the 'S2R Master Plan'), as referred to in Article 1(4) of the Statutes;
- (d) to play a major role in rail-related research and innovation, ensuring coordination among projects and providing all stakeholders with relevant and available information on projects funded across Europe. It shall also manage all rail-focused research and innovation actions co-funded by the Union;
- (e) to actively promote the participation and close involvement of all relevant stakeholders from the full rail value chain and from outside the traditional rail industry, in particular: manufacturers of railway equipment (both rolling stock and train control systems) and their supply chain, infrastructure managers, railway undertakings (both passenger and freight), metro, tram and light rail operators, rail vehicle leasing companies, notified and designated conformity assessment bodies, professional staff associations (including labour representatives), user associations (both passenger and freight), as well as the relevant scientific institutions or the relevant scientific community. In particular, the involvement of small and medium sized enterprises (SMEs), as defined in Commission Recommendation 2003/361/EC ⁽¹⁾, shall be ensured;
- (f) to develop demonstration projects in interested Member States including those that do not currently have a railway system established within their territory.

2. The S2R Joint Undertaking shall, more specifically, seek to develop, integrate, demonstrate, and validate innovative technologies and solutions that uphold the strictest safety standards and the value of which can be measured against, inter alia, the following key performance indicators:

- (a) a 50 % reduction of the life-cycle cost of the railway transport system, through a reduction of the costs of developing, maintaining, operating and renewing infrastructure and rolling stock, as well as through increased energy efficiency;
- (b) a 100 % increase in the capacity of the railway transport system, to meet increased demand for passenger and freight railway services;
- (c) a 50 % increase in the reliability and punctuality of rail services (measured as a 50 % decrease in unreliability and late arrivals);
- (d) the removal of remaining technical obstacles holding back the rail sector in terms of interoperability and efficiency, in particular by endeavouring to close points which remain open in Technical Specifications for Interoperability (TSIs) due to lack of technological solutions and by ensuring that all relevant systems and solutions developed by the S2R Joint Undertaking are fully interoperable;
- (e) the reduction of negative externalities linked to railway transport, in particular noise, vibrations, emissions and other environmental impacts.

Article 3

Union financial contribution

1. The maximum Union financial contribution to the Shift2Rail initiative shall be EUR 450 000 000, including EFTA contributions, paid from the appropriations in the general budget of the Union allocated to the Specific Programme, implementing Horizon 2020, established by Decision No 2013/743/EU, in accordance with the relevant provisions of Article 58(1)(c)(iv) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 for bodies referred to in Article 209 of that Regulation. The maximum Union financial contribution shall include:

- (a) a maximum contribution to the S2R Joint Undertaking, to cover administrative costs and operational costs, of EUR 398 000 000. The maximum Union contribution to cover administrative costs shall be EUR 13 500 000;

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

- (b) a maximum additional amount of EUR 52 000 000, earmarked under the Horizon 2020 Transport Work Programme 2014-2015. The management of this additional contribution may be taken over by the S2R Joint Undertaking once it achieves the operational capacity to implement its own budget.
2. Additional funds complementing the contribution referred to in paragraph 1 may be allocated from other Union instruments to support actions for the deployment of innovative solutions of the S2R Joint Undertaking.
3. The arrangements for the Union financial contribution shall be set out in a delegation agreement and annual transfer of funds agreements, which shall be concluded between the Commission, on behalf of the Union, and the S2R Joint Undertaking.
4. The delegation agreement referred to in paragraph 3 shall address the elements set out in Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and in Article 40 of Delegated Regulation (EU) No 1268/2012 as well as, inter alia, the following:
- (a) the requirements for the S2R Joint Undertaking's contribution regarding the relevant performance indicators referred to in Annex II to Decision No 2013/743/EU;
- (b) the requirements for the S2R Joint Undertaking's contribution in view of the monitoring referred to in Annex III to Decision No 2013/743/EU;
- (c) the specific performance indicators related to the functioning of the S2R Joint Undertaking;
- (d) the arrangements regarding the provision of data necessary to ensure that the Commission is able to draft its research and innovation policy and to meet its dissemination and reporting obligations, including on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
- (e) provisions for the publication of calls for proposals of the S2R Joint Undertaking also on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
- (f) the use of and changes to human resources, in particular recruitment by function group, grade and category, the reclassification exercise and any changes to the number of staff members.

Article 4

Contributions of members other than the Union

1. Each member of the S2R Joint Undertaking other than the Union shall make or arrange for its affiliated entities to make its respective contribution. The total contribution from all members other than the Union shall be of at least EUR 470 000 000 over the period laid down in Article 1.
2. The contribution referred to in paragraph 1 shall consist of the following:
- (a) contributions to the S2R Joint Undertaking of at least EUR 350 000 000, as laid down in Article 16(2) and Article 16(3)(b) of the Statutes, including at least EUR 200 000 000 from the founding members other than the Union and their affiliated entities, and at least EUR 150 000 000 from associated members and their affiliated entities;
- (b) in-kind contributions of at least EUR 120 000 000, of which at least EUR 70 000 000 from the founding members other than the Union and their affiliated entities, and at least EUR 50 000 000 from associated members and their affiliated entities, consisting of the costs incurred by them in implementing additional activities outside the work plan of the S2R Joint Undertaking, which are complementary to this work plan and contribute to the objectives of the S2R Master Plan. Other Union funding programmes may support those costs in compliance with the applicable rules and procedures. In such cases, Union financing shall not substitute for the in-kind contributions from the members other than the Union or their affiliated entities.

The costs referred to in point (b) of the first subparagraph shall not be eligible for financial support by the S2R Joint Undertaking. The corresponding activities shall be set out in the membership agreement referred to in Article 3(2) of the Statutes, indicating the estimated value of those contributions.

3. The members of the S2R Joint Undertaking other than the Union shall report by 31 January each year to the Governing Board of the S2R Joint Undertaking on the value of the contributions referred to in paragraph 2 made in each of the previous financial years. The States Representatives Group shall also be informed in a timely manner.

4. For the purpose of valuing the in kind contributions referred to in point (b) of paragraph 2 of this Article and Article 16(3)(b) of the Statutes, the costs shall be determined according to the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where each entity is established, and to the applicable International Accounting Standards/International Financial Reporting Standards. The costs shall be certified by an independent external auditor appointed by the entity concerned. The valuation of the contributions may be verified by the S2R Joint Undertaking should there be any uncertainty arising from the certification. For the purposes of this Regulation, the costs incurred in additional activities shall not be audited by the S2R Joint Undertaking or by any Union body.

5. Any member of the S2R Joint Undertaking other than the Union that fails to meet its commitments concerning the contributions referred to in paragraph 2 of this Article within six months of the time-limit set out in its membership agreement as defined in Article 3(2) of the Statutes shall be disqualified from voting in the Governing Board until such time as its obligations have been met. If the obligations have still not been met upon expiry of an additional six-month period, its membership shall be revoked.

6. Further to paragraph 5 of this Article, the Commission may terminate, proportionally reduce or suspend the Union financial contribution to the S2R Joint Undertaking or trigger the winding up procedure referred to in Article 24(2) of the Statutes if those members or their affiliated entities do not contribute, contribute only partially or contribute late with regard to the contributions referred to in paragraph 2 of this Article. The Commission decision shall not hinder the reimbursement of eligible costs already incurred by the members by the time the decision is notified to the S2R Joint Undertaking.

Article 5

Financial Rules

Without prejudice to Article 12 of this Regulation, the S2R Joint Undertaking shall adopt its specific Financial rules in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 110/2014 ⁽¹⁾.

Article 6

Staff

1. The Staff Regulations of Officials and the Conditions of Employment of other Servants of the European Union as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽²⁾ and the rules adopted by agreement between the institutions of the Union for the purpose of giving effect to those Staff Regulations and Conditions of Employment of Other Servants shall apply to the staff employed by the S2R Joint Undertaking.

2. The Governing Board shall exercise, with respect to the staff of the S2R Joint Undertaking, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude Contracts of Employment ('the appointing authority powers').

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

Where exceptional circumstances so require, the Governing Board may, by way of a decision, temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member of the S2R Joint Undertaking other than the Executive Director.

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

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

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

4. The staff resources shall be determined in the staff establishment plan of the S2R Joint Undertaking indicating the number of temporary posts by function group and by grade and the number of contract staff expressed in full-time equivalents, in line with its annual budget.
5. The staff of the S2R Joint Undertaking shall consist of temporary staff and contract staff.
6. All costs related to the staff shall be borne by the S2R Joint Undertaking.

Article 7

Seconded national experts and trainees

1. The S2R Joint Undertaking may make use of seconded national experts and trainees not employed by the S2R Joint Undertaking. The number of seconded national experts expressed in full-time equivalents shall be added to information on staff as referred to in Article 6(4) in line with the annual budget.
2. The Governing Board shall adopt a decision laying down rules on the secondment of national experts to the S2R Joint Undertaking and on the use of trainees.

Article 8

Privileges and immunities

The Protocol No 7 on the Privileges and Immunities of the European Union, annexed to the Treaty on European Union and the TFEU shall apply to the S2R Joint Undertaking and its staff.

Article 9

Liability of the S2R Joint Undertaking

1. The contractual liability of the S2R Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the agreement, decision or contract in question.
2. In the case of non-contractual liability, the S2R Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its staff in the performance of their duties.
3. Any payment by the S2R Joint Undertaking in respect of the liability referred to in paragraphs 1 and 2 and the costs and expenses incurred in connection therewith shall be considered to be expenditure of the S2R Joint Undertaking and shall be covered by its resources.
4. The S2R Joint Undertaking shall be solely responsible for meeting its obligations.

Article 10

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

1. The Court of Justice of the European Union shall have jurisdiction:
 - (a) in any dispute between the members which relates to the subject matter of this Regulation;
 - (b) pursuant to any arbitration clause contained in agreements, decisions or contracts concluded by the S2R Joint Undertaking;

- (c) in disputes related to compensation for damage caused by the staff of the S2R Joint Undertaking in the performance of their duties;
 - (d) in any dispute between the S2R Joint Undertaking and its staff within the limits and under the conditions laid down in the Staff Regulations.
2. For any matter not covered by this Regulation or by other acts of Union law, the law of the State where the seat of the S2R Joint Undertaking is located shall apply.

Article 11

Evaluation

1. By 30 June 2017, the Commission shall carry out, with the assistance of independent experts, an interim evaluation of the S2R Joint Undertaking. The Commission shall prepare a report on that evaluation, which shall include conclusions of the evaluation and observations by the Commission. The Commission shall send that report to the European Parliament and to the Council by 31 December 2017. The results of the interim evaluation of the S2R Joint Undertaking shall be taken into account in the in-depth assessment and in the interim evaluation referred to in Article 32 of Regulation (EU) No 1291/2013.
2. On the basis of the conclusions of the interim evaluation referred to in paragraph 1 the Commission may act in accordance with Article 4(6) or take any other appropriate actions.
3. Within six months after the winding up of the S2R Joint Undertaking, but in any event no later than two years after the triggering of the winding up procedure referred to in Article 24 of the Statutes, the Commission shall conduct a final evaluation of the S2R Joint Undertaking. The results of that final evaluation shall be presented to the European Parliament and to the Council.

Article 12

Discharge

By way of derogation from Article 60(7) and Article 209 of Regulation (EU, Euratom) No 966/2012, the discharge for the implementation of the budget of the S2R Joint Undertaking shall be given by the European Parliament, upon recommendation of the Council, in accordance with the procedure provided for in the financial rules of the S2R Joint Undertaking.

Article 13

Ex-post audits

1. Ex-post audits of expenditure on indirect actions shall be carried out by the S2R Joint Undertaking in accordance with Article 29 of Regulation (EU) No 1291/2013 as part of the Horizon 2020 indirect actions.
2. The Commission may decide to carry out the audits referred to in paragraph 1. In such cases, it shall do so in accordance with the applicable rules, in particular Regulation (EU, Euratom) No 966/2012, Regulation (EU) No 1290/2013 and Regulation (EU) No 1291/2013.

Article 14

Protection of the financial interests of the members

1. The S2R Joint Undertaking shall grant Commission staff and other persons authorised by the S2R Joint Undertaking or the Commission, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.

2. The European Anti-fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾ and in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽²⁾ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with an agreement or decision or a contract funded under this Regulation.
3. Without prejudice to paragraphs 1 and 2, contracts, agreements and decisions, resulting from the implementation of this Regulation, shall contain provisions expressly empowering the Commission, the S2R Joint Undertaking, the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.
4. The S2R Joint Undertaking shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls.
5. The S2R Joint Undertaking shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF) ⁽³⁾. The S2R Joint Undertaking shall adopt the necessary measures needed to facilitate internal investigations conducted by OLAF.

Article 15

Confidentiality

Without prejudice to Article 16, the S2R Joint Undertaking shall ensure the protection of sensitive information whose disclosure could damage the interests of its members or of participants in the activities of the S2R Joint Undertaking.

Article 16

Transparency

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽⁴⁾ shall apply to documents held by the S2R Joint Undertaking.
2. The S2R Joint Undertaking shall adopt practical arrangements for implementing Regulation (EC) No 1049/2001.
3. Without prejudice to Article 10, decisions taken by the S2R Joint Undertaking pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman under the conditions laid down in Article 228 TFEU.
4. The Governing Board may adopt practical arrangements for implementing Regulation (EC) No 1367/2006 of the European Parliament and of the Council ⁽⁵⁾.

Article 17

Rules for participation and dissemination

Regulation (EU) No 1290/2013 shall apply to the actions funded by the S2R Joint Undertaking. In accordance with that Regulation, the S2R Joint Undertaking shall be considered as a funding body and shall provide financial support to indirect actions as set out in Article 2 of the Statutes.

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

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

⁽³⁾ OJ L 136, 31.5.1999, p. 15.

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

⁽⁵⁾ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ L 264, 25.9.2006, p. 13).

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

An administrative agreement may be concluded between the S2R Joint Undertaking and the Member State in which its seat is located concerning privileges and immunities and other support to be provided by that Member State to the S2R Joint Undertaking.

*Article 19***Initial actions**

1. The Commission shall be responsible for the establishment and initial operation of the S2R Joint Undertaking until it has the operational capacity to implement its own budget. The Commission shall carry out, in accordance with Union law, all necessary actions in collaboration with the other members and with the involvement of the competent bodies of the S2R Joint Undertaking.
2. For the purpose of paragraph 1,
 - (a) until the Executive Director takes up his duties following his/her appointment by the Governing Board in accordance with Article 9 of the Statutes, the Commission may designate an interim Executive Director and exercise the duties assigned to the Executive Director who may be assisted by a limited number of Commission officials;
 - (b) by derogation from Article 6(2) of this Regulation, the interim Executive Director shall exercise the appointing authority powers;
 - (c) the Commission may assign a limited number of its officials on an interim basis.
3. The interim Executive Director may authorise all payments covered by the appropriations provided in the annual budget of the S2R Joint Undertaking once approved by the Governing Board and may conclude agreements, decisions and contracts, including staff contracts following the adoption of the S2R Joint Undertaking's staff establishment plan.
4. The interim Executive Director shall determine, in common accord with the Executive Director of the S2R Joint Undertaking and subject to the approval of the Governing Board, the date on which the S2R Joint Undertaking will have the capacity to implement its own budget. From that date onwards, the Commission shall abstain from making commitments and executing payments for the activities of the S2R Joint Undertaking.

*Article 20***Entry into force**

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

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

Done at Luxembourg, 16 June 2014.

For the Council
The President
G. KARASMANIS

ANNEX I

STATUTES OF THE JOINT UNDERTAKING

Article 1

Definitions

1. 'Associated Member' means a legal entity or a grouping or consortium of legal entities, established in a Member State or in a country associated to Horizon 2020, that has been selected according to the procedure set out in Article 4, paragraphs 2 to 4, that fulfils the conditions set out in Article 4(6), and that has accepted these Statutes by signing a letter of endorsement;
2. 'Founding Member other than the Union' refers to single legal entities having individually committed to an own contribution of at least EUR 30 000 000 for the duration of the S2R Joint Undertaking, based on a shared vision, and having accepted these t Statutes by signing a letter of endorsement. These founding members other than the Union are listed in Annex II;
3. 'Innovation Programmes' or 'IPs' refer to the thematic areas around which the S2R Master Plan, referred to in paragraph 4, shall be structured. The IPs shall be selected for their capacity to best deliver performance benefits to one or more operating environments and reflect a railway system and customer-oriented approach. Notwithstanding a decision of the Governing Board to modify this structure, the S2R Master Plan should foresee the creation of at least the following five IPs:
 - (a) Cost-efficient and Reliable Trains, including High Capacity Trains and High Speed Trains;
 - (b) Advanced Traffic Management & Control Systems;
 - (c) Cost-efficient and Reliable High Capacity Infrastructure;
 - (d) IT Solutions for Attractive Railway Services;
 - (e) Technologies for Sustainable & Attractive European Freight.
4. 'S2R Master Plan' refers to a common, forward-looking strategic roadmap, to be established and developed by the S2R Joint Undertaking, in consultation with the European Railway Agency and the European Rail Research Advisory Council (ERRAC) Technology Platform, to drive innovation in the rail sector in the long term. It shall identify the key priorities and the essential operational and technological innovations required from all stakeholders to achieve the objectives of the S2R Joint Undertaking outlined in Article 2 of this Regulation. It shall be performance driven and structured around a limited number of key thematic areas, or IPs. Once approved by the Governing Board, the Master Plan and any subsequent modification shall be endorsed by the Council, acting on a proposal from the Commission, and communicated to the European Parliament. Following this process, the Master Plan and any subsequent modification shall be adopted by the Governing Board.

Article 2

Tasks

The S2R Joint Undertaking shall carry out the following tasks:

- (a) define, in the S2R Master Plan, the priority research and innovation activities, including large-scale demonstration activities, required to accelerate the penetration of integrated, interoperable and standardised technological innovations necessary to support the Single European Railway Area and to achieve operational excellence of the railway system, while increasing capacity and reliability and driving down costs of railway transport;
- (b) mobilise public and private sector funds for financing the activities in each of the Innovation Programmes defined in the S2R Master Plan;
- (c) translate the S2R Master Plan into detailed, result-oriented annual work plans, accompanied by detailed investment plans, that allow for continuity, synchronicity, and long-term investment, and ensure its effective and efficient implementation;

- (d) ensure the supervision of activities related to the development of common products duly identified in the S2R Master Plan;
- (e) financially support research and innovation indirect actions, mainly through grants to its members and to participants through the most appropriate measures, such as procurement or the award of grants following calls for proposals to achieve the programme objectives, in accordance with Regulation (EU) No 1290/2013;
- (f) organise the technical work of research, development, validation and study, to be carried out under its authority while avoiding fragmentation of such activities;
- (g) ensure the effectiveness and efficiency of rail research and innovation activities and follow progress towards the achievement of the S2R Joint Undertaking objectives through adequate monitoring and evaluation processes;
- (h) pool user requirements and propose interoperability standards to guide investment in research and innovation towards operational and marketable solutions;
- (i) develop close cooperation and ensure coordination with related European, national and transnational research and innovation activities in the rail sector, in particular under previous Framework Programmes and Horizon 2020, thereby enabling the S2R Joint Undertaking to play a major role in rail-related research and innovation. It shall also manage all rail-focused research and innovation actions co-funded by the Union;
- (j) establish and develop close and long-term cooperation between the Union, the rail manufacturing industry, the rail operating community and other rail private and public stakeholders required to develop pioneering innovations and ensure a strong market uptake of innovative solutions, including bodies representing customers (passengers and freight), as well as actors outside the traditional rail sector;
- (k) liaise with a broad range of stakeholders including research organisations and universities and establish links with national and international research and innovation activities in the rail technical domain, in particular via the ERRAC Technology Platform, as well as with those in other domains, such as the European Road Transport Research Advisory Council (ERTRAC), the Advisory Council for Aviation Research and Innovation in Europe (ACARE), the Waterborne European Technology Platform, the European Construction Technology Platform (ECTP), the Future Manufacturing Technologies Platform (Manufuture), the Alliance for Logistics Innovation (ALICE), the Advanced Engineering Materials and Technologies Platform (EuMaT), and others;
- (l) stimulate the involvement of SMEs in its activities, in line with the objectives of Horizon 2020;
- (m) seek a geographically balanced involvement of members and partners in its activities;
- (n) undertake information, communication and dissemination activities by applying *mutatis mutandis* the provisions of Article 22 of Regulation (EU) No 1291/2013, including making the detailed information on results from calls for proposals available and accessible on the single portal for participants as well as through other Horizon 2020 electronic means of dissemination managed by the Commission;
- (o) any other task needed to achieve the objectives set out in Article 2 of this Regulation.

Article 3

Members

1. The following shall be members of the S2R Joint Undertaking:
 - (a) the Union, represented by the Commission;
 - (b) upon acceptance of these Statutes by means of a letter of endorsement, the founding members of the S2R Joint Undertaking other than the Union, listed in Annex II to this Regulation, as well as the associated members to be selected in accordance with Article 4. These members shall jointly be referred to as the members other than the Union.
2. The role and contribution of members other than the Union shall be defined in a membership agreement with the S2R Joint Undertaking. That agreement shall be negotiated with the Executive Director and transmitted to the Governing Board for approval. It shall provide a quantitative and qualitative description of the member's contribution to the S2R Joint Undertaking, defined in point (a) of Article 4(2) of this Regulation, as well as the plan of additional activities referred to in point (b) of Article 4(2) of this Regulation, and shall include provisions relating to the member's representation within the Governing Board.

*Article 4***Changes to membership**

1. Provided that it accepts these Statutes and commits to contributing to the funding referred to paragraph 6 to achieve the objectives set out in Article 2 of this Regulation, any legal entity, grouping or consortium of legal entities, established in a Member State or in a country associated to Horizon 2020, may apply to become an associated member of the S2R Joint Undertaking.
2. The associated members of the S2R Joint Undertaking shall be selected through an open, non-discriminatory and competitive call launched by the Commission and subject to a transparent evaluation by the Governing Board. That evaluation shall take into account, inter alia, the relevance and the potential added value of the applicant in achieving of the objectives of the S2R Joint Undertaking, the financial soundness of the applicant, and conflicts of interest regarding the objectives of the S2R initiative.
3. Taking into account the results of the evaluation, the Commission shall make the final decision with a view to ensuring geographical balance, as well as balanced participation of SMEs, of the research community and of actors from the entire rail value chain, including from outside the traditional rail sector.
4. The first call for associated members shall be launched within three months at the latest following the establishment of the S2R Joint Undertaking. Any additional calls shall be driven by the need for key capabilities to implement the S2R Master Plan. All calls shall be published on the S2R Joint Undertaking website and communicated through the States Representatives Group and other channels in order to ensure the widest possible participation in the interest of the achievement of the objectives of the S2R Master Plan.
5. The minimum own contribution required in order to become an associated member shall be 2,5 % of the total budget of the Innovation Programme in which it participates. Alternatively, railway undertakings in the form of a single legal entity may become an associated member with a minimum own contribution of EUR 12 000 000 across all Innovation Programmes. Furthermore, consortia composed of railway undertakings and/or infrastructure managers may become an Associated Member with a minimum own contribution of EUR 15 000 000 across all Innovation Programmes.
6. Any member may terminate its membership of the S2R Joint Undertaking. The termination shall become effective and irrevocable six months after notification to the other members. As of then, the former member shall be discharged from any obligations other than those approved or incurred by the S2R Joint Undertaking prior to terminating the membership.
7. Membership of the S2R Joint Undertaking may not be transferred to a third party without the prior and unanimous agreement of the Governing Board.
8. Upon any change to membership pursuant to this Article, the S2R Joint Undertaking shall publish immediately on its website an updated list of members of the S2R Joint Undertaking together with the date from which such change takes effect.

*Article 5***Organisation of the Joint Undertaking**

1. The bodies of the S2R Joint Undertaking shall be:
 - (a) the Governing Board;
 - (b) the Executive Director;
 - (c) the Scientific Committee;
 - (d) the States Representatives Group.
2. The Scientific Committee and the States Representatives Group are advisory bodies to the S2R Joint Undertaking.

*Article 6***Composition of the Governing Board**

1. The Governing Board shall be composed of a maximum of twenty-two members, including:
 - (a) two representatives from the Commission;
 - (b) one representative from each of the founding members of the S2R Joint Undertaking other than the Union;
 - (c) one representative of each associated member, as referred to in Article 1(1) that also fulfils, as a single legal entity, the criteria listed in Article 1(2);
 - (d) a maximum of nine representatives of associated members as referred to in Article 1(1), of which at least one per Innovation Programme, referred to in Article 1(3) selected according to the procedure laid down in point (a) of Article 11(4).
2. The final composition of the Governing Board shall ensure, in so far as possible, a balanced representation of SMEs, of the research community and of actors from the entire rail value chain, including from outside the traditional rail sector. To this end, it shall include at least three representatives of railway undertakings.

*Article 7***Functioning of the Governing Board**

1. The Governing Board shall be chaired by the Commission.
2. The members of the S2R Joint Undertaking in the Governing Board shall have a number of votes in proportion to the contribution to the funds of the Joint Undertaking of the members they represent. The Commission shall have 50 % of the voting rights. The vote of the Commission shall be indivisible and shall reflect the Union's position in the Governing Board.
3. The representatives shall use their best endeavours to achieve consensus. Failing consensus and notwithstanding paragraph 4, decisions of the Governing Board shall be adopted by a majority of at least two thirds of all votes, including the votes of those who are not in attendance, unless otherwise provided for in these Statutes.
4. On decisions pertaining to the representation of associated members in the Governing Board, the Commission shall have the casting vote if the majority of two thirds cannot be achieved.
5. The Governing Board shall adopt its rules of procedure which shall ensure that its proceedings run in a smooth and efficient manner. Those rules shall include specific procedures for identifying and avoiding conflicts of interest.

The Governing Board shall meet at least three times a year. Extraordinary meetings shall be convened either at the request of one third of the members of the Governing Board representing at least 30 % of the voting rights, at the request of the Commission or of the Executive Director;

The meetings shall normally take place at the seat of the S2R Joint Undertaking.

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

A representative of the European Railway Agency and the chairperson or the vice-chair person of the States Representatives Group shall have the right to attend meetings of the Governing Board as observers and take part in its deliberations, but shall have no voting rights.

The Governing Board may invite other persons to attend its meetings as observers. In particular, the chairperson of the Scientific Committee shall be invited, whenever issues falling within its tasks are discussed, to attend meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights.

*Article 8***Tasks of the Governing Board**

The Governing Board shall have overall responsibility for the strategic orientation and the operations of the S2R Joint Undertaking and shall supervise the implementation of its activities. In particular, the Governing Board shall carry out the following tasks:

- (a) adopt the S2R Master Plan and any proposal to modify it;
- (b) adopt the S2R Joint Undertaking's annual work plan and the corresponding expenditure estimates, as proposed by the Executive Director after having consulted the Scientific Committee and the States Representatives Group;
- (c) define the detailed list of criteria to select associated members in accordance with Article 4 and assess, accept or reject applications for new membership on that basis;
- (d) decide on the final composition of the Governing Board, in particular by selecting the representatives of associated members, other than those fulfilling the criteria in Article 1(2), on the basis of a proposal from each Steering Committee;
- (e) decide on the termination of the membership in the S2R Joint Undertaking of any Member that does not fulfil its obligations and on the conditions of this termination;
- (f) approve the membership agreements referred to in Article 3(2) after having consulted, where appropriate, an ad hoc advisory group;
- (g) adopt the financial rules of the Joint Undertaking in accordance with Article 5 of this Regulation;
- (h) adopt the S2R Joint Undertaking's annual budget, as proposed by the Executive Director, including the staff establishment plan indicating the number of temporary posts by function group and by grade as well as the number of contract staff and seconded national experts expressed in full-time equivalents;
- (i) exercise the appointing authority powers in respect of the staff, in accordance with Article 6(2) of this Regulation;
- (j) appoint, dismiss, extend the term of office of, provide guidance to and monitor the performance of the Executive Director;
- (k) develop a common model of rules of procedure for the Steering Committees;
- (l) approve the organisation chart upon recommendation of the Executive Director;
- (m) approve the annual activity report, including the corresponding expenditure;
- (n) arrange, as appropriate, for the establishment of an internal audit capability of the S2R Joint Undertaking;
- (o) develop procedures for open and transparent calls and approve the calls as well as, where appropriate, the related rules for submission, evaluation, selection, award and review procedures;
- (p) approve the list of actions selected for funding;
- (q) where appropriate, set up working groups referred to in Article 14 in addition to the bodies of the S2R Joint Undertaking;
- (r) where appropriate, establish implementing rules in line with Article 6(3) of this Regulation, as well as rules on the secondment of national experts to the S2R Joint Undertaking and on the use of trainees in line with Article 7 of this Regulation;
- (s) where appropriate, submit to the Commission any request to amend this Regulation proposed by any member of the S2R Joint Undertaking;
- (t) decide on proposals to the Commission on the extension or the winding up of the Joint Undertaking;
- (u) exercise any task that is not specifically allocated to one of the bodies of the S2R Joint Undertaking, which it may assign to one of those bodies.

*Article 9***Appointment, dismissal or extension of the term of office of the Executive Director**

1. The Executive Director shall be appointed by the Governing Board, from a list of candidates proposed by the Commission, following an open and transparent selection procedure.
2. The Executive Director is a member of staff and shall be engaged as a temporary agent of the S2R Joint Undertaking under Article 2(a) of the Conditions of employment of other servants of the Union.
3. For the purpose of concluding the contract with the Executive Director, the S2R Joint Undertaking shall be represented by the chairperson of the Governing Board.
4. The term of office of the Executive Director shall be five years. By the end of that period, the Commission shall undertake an assessment that takes into account an evaluation of the performance of the Executive Director and the S2R Joint Undertaking's future tasks and challenges.
5. The Governing Board, acting on a proposal from the Commission, which takes into account the assessment referred to in paragraph 4, may extend once the term of office of the Executive Director for no more than five years.
6. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.
7. The Executive Director may be removed from office only upon a decision of the Governing Board acting on a proposal from the Commission.

*Article 10***Tasks of the Executive Director**

1. The Executive Director shall be the chief executive responsible for the day-to-day management of the S2R Joint Undertaking in accordance with the decisions of the Governing Board.
2. The Executive Director shall be the legal representative of the S2R Joint Undertaking. The Executive Director shall be accountable to the Governing Board and perform his or her duties with complete independence within the powers assigned to him or her.
3. The Executive Director shall implement the budget of the S2R Joint Undertaking. The Executive Director shall provide the Governing Board with all information necessary for the performance of its functions.
4. The Executive Director shall in particular:
 - (a) prepare and submit for adoption to the Governing Board the draft annual budget, including the corresponding staff establishment plan indicating the number of temporary posts in each grade and function group and the number of contract staff and seconded national experts expressed in full-time equivalents;
 - (b) prepare and submit for adoption to the Governing Board the annual work plans of the Joint Undertaking and the corresponding expenditure estimates;
 - (c) submit the annual accounts to the Governing Board for approval;
 - (d) prepare and submit for approval to the Governing Board the annual activity report referred to in Article 20(2), and such other reports as may be requested by the Governing Board;
 - (e) handle second-instance settlement of disputes within IPs;
 - (f) handle first -instance settlement of disputes across IPs;
 - (g) manage the calls and submit for approval to the Governing Board the list of actions selected for funding;
 - (h) sign individual agreements or decisions;

- (i) sign procurement contracts;
- (j) ensure that the obligations of the Joint Undertaking, with regard to the contracts and agreements it concludes, are met;
- (k) ensure the coordination between the different IPs and take appropriate action to manage interfaces, avoid undue overlaps between projects and favour synergies across IPs;
- (l) propose to the Governing Board adaptations of the technical content and budget allocations between IPs;
- (m) ensure that the planned objectives and the schedules are met, coordinate and follow-up the IP activities and propose any appropriate evolution of the objectives and related schedule;
- (n) monitor the progress made by the IPs towards achieving the objectives;
- (o) draw up and implement the S2R Joint Undertaking's communications policy;
- (p) submit to the Governing Board proposals concerning the organisation chart;
- (q) organise, direct and supervise the operations and the staff of the S2R Joint Undertaking, within the constraints of the delegation by the Governing Board as provided for in Article 6(2) of this Regulation;
- (r) ensure that the activities of the Joint Undertaking are carried out in complete independence and without any conflicts of interest;
- (s) establish and ensure the functioning of an effective and efficient internal control system and report any significant change to it to the Governing Board;
- (t) ensure that risk assessment and risk management are performed;
- (u) take any other measures needed for assessing the progress of the S2R Joint Undertaking towards achieving its objectives;
- (v) inform the States Representatives Group, the Scientific Committee and the European Railway Agency regularly of all matters relevant to their advisory role. In this respect, the Executive Director of the Joint Undertaking shall attend the Horizon 2020 smart, green and integrated transport specific configuration programme committee meeting at the request of the committee once per year over the lifetime of the Joint Undertaking in order to outline the progress of the Shift2Rail initiative;
- (w) perform any other tasks entrusted or delegated to the Executive Director by the Governing Board.

5. The Executive Director shall set up a Programme Office for the execution, under the Executive Director's responsibility, of all support tasks arising from this Regulation. The Programme Office shall be composed of the staff of the S2R Joint Undertaking and shall in particular carry out the following tasks:

- (a) provide support in establishing and managing an appropriate accounting system in accordance with the financial rules of the S2R Joint Undertaking;
- (b) manage the calls as provided for in the annual work plan and administer the agreements or decisions, including their coordination;
- (c) provide the members and the other bodies of the S2R Joint Undertaking with all relevant information and support necessary for them to perform their duties as well as responding to their specific requests;
- (d) act as the secretariat of the bodies of the S2R Joint Undertaking and provide support to any working group set up by the Governing Board.

Article 11

Innovation Programmes' Steering Committees

1. Steering Committees shall be established for each of the Innovation Programmes.
2. Each Steering Committee shall be composed of:
 - (a) a representative of each founding member and associated member fulfilling the criteria listed in Article 1(2) or, for railway undertakings, the criteria listed in Article 4(5);

- (b) a representative of each associated member participating in the Innovation Programme;
 - (c) one or more representatives of the Programme Office, as designated by the Executive Director.
3. Each Steering Committee shall adopt its rules of procedure, based on a common model approved by the Governing Board. It shall elect a chairperson amongst its members. A representative of the Commission and of the European Railway Agency may participate in meetings of the Steering Committee as observers. Other members with an interest in the results of the IP may be invited to attend.
4. Each Steering Committee shall be responsible amongst others for:
- (a) proposing to the Governing Board a shortlist of a minimum of two candidates from which the IP's representative in the Governing Board will be selected, as well as, where necessary, establishing an order of rotation. Insofar as possible, the shortlist should reflect a balanced representation of SMEs, of the research community and of actors from the entire rail value chain, including from outside the traditional rail sector;
 - (b) providing the relevant technical input to its IP, in particular for the development of the calls for proposals with a view to approval by the Governing Board;
 - (c) establishing the detailed annual implementation plans for the IP in line with the annual work plans adopted by the Governing Board in accordance with Article 2(c);
 - (d) reporting to the Executive Director on the basis of the key performance indicators defined in Article 2(2) of this Regulation.

Article 12

European Railway Agency

The European Railway Agency shall contribute to the definition and implementation of the S2R Master Plan, in particular by performing the following advisory tasks:

- (a) proposing possible amendments to the S2R Master Plan and to the annual work plans, in particular to ensure that research needs relating to the realisation of the Single European Railway Area are covered;
- (b) proposing, after consultation with the stakeholders referred to in point (e) of Article 2(1) of this Regulation, guidelines for research and development activities leading to technical standards with a view to guaranteeing the interoperability and safety of results;
- (c) reviewing the common developments for the future system and contributing to defining target systems in regulatory requirements;
- (d) reviewing project activities and results with a view to ascertaining their relevance to the objectives identified in Article 2(2) of this Regulation and to guaranteeing the interoperability and safety of research results.

Article 13

Scientific Committee

1. The Scientific Committee shall consist of no more than twelve members. It shall elect a chairperson from amongst its members.
2. The members shall reflect a balanced representation of world-renowned scientists and engineers from academia, industry, SMEs, non-governmental organisations and regulatory bodies. Collectively, the Scientific Committee members shall have the necessary scientific competencies and expertise covering the technical domain needed to make science-based recommendations to the S2R Joint Undertaking.
3. The Governing Board shall establish the specific criteria and selection process for the composition of the Scientific Committee and shall appoint its members. The Governing Board shall take into consideration the potential candidates proposed by the States Representatives Group, by the ERRAC and by the European Railway Agency.

4. The Scientific Committee shall carry out the following tasks:
 - (a) advise on the scientific and technological priorities to be addressed in the annual work plans;
 - (b) advise on the scientific and technological achievements described in the annual activity report;
 - (c) suggest possible areas of advanced research that could be subject to further developments;
 - (d) suggest possible synergies with national and international research and innovation activities in the rail technical domain, in particular via the European Rail Research Advisory Council (ERRAC) Technology Platform, as well as with those in other domains, as identified in Article 2(k).
5. The Scientific Committee shall meet at least twice a year. The meetings shall be convened by its chairperson.
6. The Scientific Committee may, with the agreement of the chairperson, invite other persons to attend its meetings.
7. The Scientific Committee shall adopt its own rules of procedure.

Article 14

States Representatives Group

1. The States Representatives Group shall consist of one representative of each Member State and of each country associated to Horizon 2020. It shall elect a chairperson and a vice-chair person from among its members.
2. The States Representatives Group shall meet at least twice a year. The meetings shall be convened by its chairperson. The Executive Director and the chairperson of the Governing Board or their representatives shall attend the meetings.
3. The members of the Single European Rail Area Committee, established by Article 62 of Directive 2012/34/EU of the European Parliament and of the Council ⁽¹⁾, or their representatives, and the members of the Railway Interoperability and Safety Committee, established by Article 29 of Directive 2008/57/EC of the European Parliament and of the Council ⁽²⁾ may take part in the meetings of the States Representatives Group.
4. The States Representatives Group shall be involved and, in particular, review information and provide opinions on the following matters:
 - (a) updating of strategic orientation and of the S2R Master Plan and progress towards achievement of its targets;
 - (b) the S2R Joint Undertaking annual work plans;
 - (c) links to Horizon 2020 and to other Union and Member State funding instruments, including the Connecting Europe Facility, and the ESIF;
 - (d) links to the Union rail transport legislation and the goal of achieving a Single European Railway Area;
 - (e) involvement of SMEs and relevant actors from outside the traditional rail sector.
5. The States Representatives Group shall also provide information to and act as an interface with the S2R Joint Undertaking on the following matters:
 - (a) the status of relevant national or regional research and innovation programmes and identification of potential areas of cooperation, including deployment of relevant technologies to allow synergies and avoid overlaps;
 - (b) specific measures taken at national or regional level with regard to dissemination events, dedicated technical workshops and communication activities.

⁽¹⁾ Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).

⁽²⁾ Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (Recast) (OJ L 191, 18.7.2008, p. 1).

6. The States Representatives Group may issue, on its own initiative, recommendations and proposals to the Governing Board on technical, managerial and financial matters, as well as on annual plans, in particular when those matters affect national or regional interests. The Governing Board shall take these proposals into account and inform without undue delay the States Representatives Group of the follow up it has given to such recommendations or proposals, including the justifications if they are not taken up.
7. The States Representatives Group shall receive information on a regular basis, among others on the participation in actions funded by the S2R Joint Undertaking, on the outcome of each call and project implementation, on synergies with other relevant Union programmes, and on the execution of the S2R Joint Undertaking budget.
8. The States Representatives Group shall adopt its own rules of procedure.

Article 15

Working groups

1. In order to carry out the tasks provided for in Article 2, the Governing Board of the S2R Joint Undertaking may set up a limited number of working groups to carry out activities which are delegated to them by the Governing Board. These groups shall be composed of experts and shall work in a transparent manner.
2. The experts who take part in the working groups shall not belong to the staff of the S2R Joint Undertaking.
3. In order to ensure the widest range of expertise, the S2R Joint Undertaking shall encourage and facilitate the participation of SMEs, research organisations and actors from outside the traditional rail sector in the working groups.
4. The working groups shall be chaired by a representative of the S2R Joint Undertaking. The Commission and the European Railway Agency shall assist in these working groups as observers.

Article 16

Sources of financing

1. The S2R Joint Undertaking shall be jointly funded by the Union and the members other than the Union and their affiliated entities through financial contributions paid in instalments and in kind contributions, consisting of the costs incurred by them in implementing indirect actions that are not reimbursed by the S2R Joint Undertaking.
2. The administrative costs of the S2R Joint Undertaking shall not exceed EUR 27 000 000, and shall be covered through financial contributions divided equally on an annual basis between the Union and the members of the S2R Joint Undertaking other than the Union, other than research centres and universities. The contribution of the members other than the Union shall be determined proportionately to their respective budget commitment. If part of the contribution for administrative costs is not used, it may be made available to cover the operational costs of the S2R Joint Undertaking.
3. The operational costs of the S2R Joint Undertaking shall be covered through:
 - (a) a financial contribution by the Union;
 - (b) in-kind contributions by the members other than the Union and their affiliated entities, consisting of the costs incurred by them in implementing indirect actions less the contribution of the S2R Joint Undertaking and any other Union contribution to those costs.
4. The resources of the S2R Joint Undertaking entered into its budget shall be composed of the following contributions:
 - (a) members' financial contributions to the administrative costs;
 - (b) Union financial contribution to the operational costs;

- (c) any revenue generated by the S2R Joint Undertaking;
 - (d) any other financial contributions, resources and revenues.
5. Any interest yielded by the contributions paid by the members of the S2R Joint Undertaking shall be considered to be its revenue.
 6. All the resources of the S2R Joint Undertaking shall be devoted to achieving the objectives set out in Article 2 of this Regulation.
 7. The S2R Joint Undertaking shall own all assets generated by it or transferred to it for the fulfilment of its objectives set out in Article 2 of this Regulation.
 8. Subject to Article 24(4), no payment by way of division of any excess revenue over expenditure shall be made to the members of the S2R Joint Undertaking.

Article 17

Allocation of the Union contribution

1. The Union financial contribution to the S2R Joint Undertaking dedicated to operational costs referred to in point (a) of Article 3(1) of this Regulation and the additional contribution referred to in point (b) of Article 3(1) of this Regulation shall be allocated as follows:
 - (a) up to 40 % shall be allocated to founding members, other than the Union, and their affiliated entities;
 - (b) up to 30 % shall be allocated to associated members and their affiliated entities;
 - (c) at least 30 % shall be allocated by way of competitive calls for proposals and calls for tenders.
2. Funding under paragraph 1 shall be allocated following evaluation of proposals by independent experts.
3. Financial commitments of the S2R Joint Undertaking shall not exceed the amount of financial resources available or committed to its budget by its members.

Article 18

Financial year

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

Article 19

Operational and financial planning

1. The Executive Director shall draw up and submit for adoption to the Governing Board a draft annual work plan, on the basis of the S2R Master Plan, which shall include a detailed plan of the research and innovation activities, the administrative activities and the corresponding expenditure estimates for the coming year. The draft work plan shall also include the estimated value of the contributions to be made in accordance with point (b) of Article 16(3).
2. The annual work plan for a particular year shall be adopted by the end of the previous year. The annual work plan shall be made publicly available.
3. The Executive Director shall prepare the draft annual budget for the following year and submit it to the Governing Board for adoption.

4. The annual budget for a particular year shall be adopted by the Governing Board by the end of the previous year.
5. The annual budget shall be adapted in order to take into account the amount of the Union contribution as set out in the Union budget.

Article 20

Operational and financial reporting

1. The Executive Director shall report annually to the Governing Board on the performance of his/her duties in accordance with the financial rules of the S2R Joint Undertaking.
2. Within two months of the closure of each financial year, the Executive Director shall submit to the Governing Board for approval an annual activity report on the progress made by the S2R Joint Undertaking in the previous calendar year, in particular in relation to the annual work plan for that year. That report shall include, inter alia, information on the following matters:
 - (a) research, innovation and other actions carried out and the corresponding expenditure;
 - (b) the actions submitted, including a breakdown by participant type, including SMEs, and by country;
 - (c) the actions selected for funding, including a breakdown by participant type, including SMEs, and by country and indicating the contribution of the S2R Joint Undertaking to the individual participants and actions;
 - (d) progress towards the achievement of the objectives set out in Article 2(2) of this Regulation and proposals for further necessary work to achieve these objectives. Once approved by the Governing Board, the annual activity report shall be transmitted to the States Representatives Group and made publicly available.
3. The S2R Joint Undertaking shall report annually to the Commission in accordance with Article 60(5) of Regulation (EU, Euratom) No 966/2012.
4. By 1 March of the following financial year, the accounting officer of the S2R Joint Undertaking shall send the provisional accounts to the Commission's accounting officer and the Court of Auditors.

By 31 March of the following financial year, the S2R Joint Undertaking shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors.

On receipt of the Court of Auditors' observations on the S2R Joint Undertaking's provisional accounts pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, the accounting officer shall draw up the S2R Joint Undertaking's final accounts and the Executive Director shall submit them to the Governing Board for an opinion.

The Governing Board shall deliver an opinion on the S2R Joint Undertaking's final accounts.

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

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

By 30 September, the Executive Director shall send the Court of Auditors a reply to its observations made in its annual report. The Executive Director shall also send this reply to the Governing Board.

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

5. The accounts of the S2R Joint Undertaking shall be examined by an independent audit body as laid down in Article 60(5) of Regulation (EU, Euratom) No 966/2012.

*Article 21***Internal Audit**

The Commission's internal auditor shall exercise the same powers over the S2R Joint Undertaking as those exercised in respect of the Commission.

*Article 22***Liability of members and insurance**

1. The financial liability of the members for the debts of the S2R Joint Undertaking shall be limited to their contribution already made for the administrative costs.
2. The S2R Joint Undertaking shall take out and maintain appropriate insurance.

*Article 23***Conflicts of interest**

1. The S2R Joint Undertaking, its bodies and staff shall avoid any conflict of interest in the implementation of their activities.
2. The Governing Board shall adopt rules for the prevention and management of conflicts of interest in respect of its members, bodies, staff and seconded staff. In those rules provision shall be made to avoid a conflict of interest for the representatives of the members serving in the Governing Board.

*Article 24***Winding up**

1. The S2R Joint Undertaking shall be wound up at the end of the period laid down in Article 1 of this Regulation.
 2. The winding up procedure shall be automatically triggered if the Commission or all members other than the Union withdraw from the S2R Joint Undertaking.
 3. For the purpose of conducting the proceedings to wind up the Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.
 4. When the Joint Undertaking is being wound up, its assets shall be used to cover its liabilities and the expenditure relating to its winding up. Any surplus shall be distributed among the members at the time of the winding up in proportion to their financial contribution to the S2R Joint Undertaking. Any such surplus distributed to the Union shall be returned to the Union budget.
 5. An ad hoc procedure shall be set up to ensure the appropriate management of any agreement concluded or decision adopted by the S2R Joint Undertaking as well as any procurement contract with a duration exceeding its duration.
-

ANNEX II

FOUNDING MEMBERS OF THE S2R JOINT UNDERTAKING OTHER THAN THE UNION

1. ALSTOM TRANSPORT
 2. ANSALDO STS
 3. BOMBARDIER TRANSPORTATION
 4. CONSTRUCCIONES Y AUXILIAR DE FERROCARRILES
 5. NETWORK RAIL
 6. SIEMENS AKTIENGESELLSCHAFT
 7. THALES
 8. TRAFIKVERKET
-

COMMISSION IMPLEMENTING REGULATION (EU) No 643/2014**of 16 June 2014****laying down implementing technical standards with regard to the reporting of national provisions of prudential nature relevant to the field of occupational pension schemes according to Directive 2003/41/EC of the European Parliament and of the Council****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision ⁽¹⁾ and in particular the fourth subparagraph of Article 20(11) thereof,

Whereas:

- (1) Directive 2003/41/EC requires Member States to report to the European Insurance and Occupational Pensions Authority (EIOPA) their national provisions of prudential nature relevant to the field of occupational pension schemes which are not covered by the reference to national social and labour law in Article 20(1) of that Directive (hereinafter 'national prudential provisions'). The requirements laid down in this Regulation do not affect Member State competences as provided for in Directive 2003/41/EC with regard to the national social and labour law applicable to institutions for occupational retirement provision.
- (2) It is appropriate for EIOPA to make the information reported under this Regulation available on its website to create a centralised source of information at Union level on national prudential provisions.
- (3) It is acknowledged that Member States can have provisions applicable to occupational pension schemes in areas such as company law, trust law and insolvency law that extend beyond national prudential provisions. The reporting obligation under this Regulation is not intended to provide an exhaustive list of all the legal and regulatory rules under which occupational pension schemes operate.
- (4) In accordance with Article 4 of Directive 2003/41/EC, Member States may choose to apply the provisions of Articles 9 to 16 and Articles 18, 19 and 20 of that Directive to the business of occupational retirement provision of insurance undertakings which are covered by Directive 2002/83/EC of the European Parliament and of the Council ⁽²⁾. Member States that availed themselves of this option apply a range of national prudential provisions to insurance undertakings that is different from those applicable to occupational pension schemes. For the Member States that follow this option, the reporting obligation should also include information regarding the assets and liabilities referred to in the second paragraph of Article 7 of Directive 2003/41/EC.
- (5) In order to ensure uniform reporting, a template should be provided for competent authorities to use when transmitting the requested information to EIOPA. To enable ease of access and comparability of the information transmitted, the template list should correspond to the relevant provisions of Directive 2003/41/EC. The template should also facilitate the reporting of national prudential provisions which are not covered in the list, being of a prudential nature but not directly linked to the transposition of Directive 2003/41/EC.
- (6) Given the fact that Union law does not harmonise the structures of institutions for occupational retirement provision, there are numerous structures in which retirement provision is organised across the Member States. Competent authorities should report the names of those institutions and indicate the national prudential provisions applicable to the different structural types, where relevant.
- (7) The reporting obligation imposed on competent authorities as regards solvency margins and the guarantee fund as laid down in Articles 17a to 17d of Directive 2003/41/EC, is accommodated in the reporting template through Article 17(2) of that Directive.

⁽¹⁾ OJ L 235, 23.9.2003, p. 10.

⁽²⁾ Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ L 345, 19.12.2002, p. 1).

- (8) In some Member States, national prudential provisions do not apply to the whole territory of the relevant Member State. Therefore, competent authorities should indicate in the template whether their national prudential provisions apply to different territories within their Member State, and the territorial scope of the reported provisions.
- (9) Information on national prudential provisions needs to be kept up to date without imposing a disproportionate burden on competent authorities. Therefore, the reporting should be limited to once a year. To increase the consistency of the disclosure of the information, the date to which the reporting refers and the date for the transmission of the information to EIOPA should be fixed. Competent authorities should be able to update that information between reporting dates on a voluntary basis.
- (10) To ensure that information on national prudential provisions is available shortly after the entry into force of this Regulation, the first transmission of information should take place within six months from its entry into force.
- (11) As specified in Recital 32 of Directive 2010/78/EU of the European Parliament and of the Council ⁽¹⁾, the technical standards drafted by EIOPA should be without prejudice to the competences of Member States with regard to prudential requirements on such institutions as provided for in Directive 2003/41/EC.
- (12) This Regulation is based on the draft implementing technical standards submitted by EIOPA to the Commission.
- (13) EIOPA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Occupational Pensions Stakeholder Group established by Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council ⁽²⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Reporting procedures

1. Competent authorities shall transmit the information on national prudential provisions to EIOPA for the first time within six months from the entry into force of this Regulation and then annually, by 30 June of each calendar year subsequent to the year in which that six month period ends.
2. The first transmission shall relate to national prudential provisions which are in force on the date this Regulation enters into force. The annual transmissions shall relate to national prudential provisions which are in force on 1 March of the relevant calendar year.
3. Competent authorities may transmit updated information on their national prudential provisions to EIOPA at any time on a voluntary basis.

Article 2

Reporting format and templates

1. Where competent authorities report and update their national prudential provisions, they shall use the template provided in the Annex indicating the following:
 - (a) the name of the competent authority, the name of the Member State and the date of transmission to EIOPA;
 - (b) whether it is a first, a voluntary or an annual transmission;
 - (c) whether the transmission relates to insurance undertakings as referred to in Article 4 of Directive 2003/41/EC and the type of that insurance undertaking;

⁽¹⁾ Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010, p. 120).

⁽²⁾ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

- (d) whether there is more than one structural type of institution for occupational retirement provision in the Member State and if so, the names of the structural types and the national prudential provisions applicable to them;
 - (e) whether the reported provisions apply to different territories within a Member State and if so, the territorial scope of those reported provisions;
 - (f) references to the respective official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable;
 - (g) a hyperlink to the relevant section of the website containing the full text of the acts and other relevant instruments, where available.
2. Where in a Member State there are national prudential provisions which are not covered by the template list set out in the Annex, the relevant competent authority shall indicate those provisions in the category 'Other' in the template.
3. Competent authorities shall submit completed templates to EIOPA in electronic format.

Article 3

Entry into force

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

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

Done at Brussels, 16 June 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX

Template regarding the national provisions of prudential nature relevant to the field of occupational pension schemes					
Name of a competent authority		Name of a Member State		Date of transmission to EIOPA	
Report relates to business of occupational retirement provision of insurance undertakings as referred to in Article 2(1)(c) (please mark x)	Yes		There is more than one structural type of institutions for occupational retirement provision in our jurisdiction as referred to in Article 2(1)(d) (please mark x)	Yes	
	No			No	
If yes, please provide the type of the insurance undertaking as referred to in the national legislation:			If yes, please provide their names and make clear if different national prudential provisions apply to different structural types of institutions for occupational retirement provision.		
Type of a report (please mark x)	a) first transmission — Article 1(1) and Article 1(2)		Different territorial extent of the reported provisions as referred to in Article 2(1)(e) (please mark x)	Yes	
	b) voluntary transmission — Article 1(3)			No	
	c) annual transmission — Article 1(1)				
			If yes, please indicate the territorial scope of each of the reported provisions.		

Code	Item	Corresponding provisions in Directive 2003/41/EC
10	Activities of an institution	Article 7
	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
20	Legal separation between sponsoring undertakings and institutions for occupational retirement provision	Article 8
	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
30	Conditions of operation	Article 9
31		Article 9(1)
	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	

Code	Item	Corresponding provisions in Directive 2003/41/EC
		Article 9(2)
32	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
		Article 9(3)
33	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
		Article 9(4)
34	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
		Article 9(5)
35	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
	Annual accounts and annual reports	Article 10
40	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
	Statement of investment policy principles	Article 12
50	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
60	Information to be provided to the competent authorities	Article 13
		Article 13(1)
61	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
		Article 13(2)
62	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
70	Powers of intervention and duties of the competent authorities	Article 14
		Article 14(1)
71	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	

Code	Item	Corresponding provisions in Directive 2003/41/EC
72	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 14(2)
73	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 14(3)
74	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 14(4)
75	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 14(5)
80	Technical provisions	Article 15
81	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 15(1)
82	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 15(2)
83	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 15(3)
84	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 15(4)
85	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 15(5)

Code	Item	Corresponding provisions in Directive 2003/41/EC
		Article 15(6)
86	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
90	Funding of technical provisions	Article 16
		Article 16(1)
91	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
		Article 16(2)
92	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
		Article 16(3)
93	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
100	Regulatory own funds	Article 17
		Article 17(1)
101	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
		Article 17(2)
102	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
		Article 17(3)
103	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	
110	Investment rules	Article 18
		Article 18(1)
111	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	

Code	Item	Corresponding provisions in Directive 2003/41/EC
112	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 18(2)
113	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 18(3)
114	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 18(4)
115	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 18(5)
116	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 18(6)
117	Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 18(7)
120	Management and custody Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	Article 19
Other as referred to in Article 2(2)	National prudential provisions that are not covered by the above list. Official names and numbers of the acts and other relevant instruments, including the title and number of any relevant Sections or Articles, if applicable: Hyperlink(s) to the full text of the national legislation:	

COMMISSION IMPLEMENTING REGULATION (EU) No 644/2014**of 16 June 2014****amending Regulation (EC) No 1235/2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 ⁽¹⁾, and in particular Article 33(2) and (3) and Article 38(d) thereof,

Whereas:

- (1) Annex III to Commission Regulation (EC) No 1235/2008 ⁽²⁾ sets out the list of third countries whose system of production and control measures for organic production of agricultural products are recognised as equivalent to those laid down in Regulation (EC) No 834/2007. Annex IV to that Regulation sets out the list of control bodies and control authorities competent to carry out controls and issue certificates in third countries for the purpose of equivalence. In the light of new information received by the Commission, certain changes should be made to the lists set out in those Annexes.
- (2) The duration of inclusion of Canada in the list set out in Annex III to Regulation (EC) No 1235/2008 ends on 30 June 2014. Given that Canada continues to satisfy the conditions laid down in Article 33(2) of Regulation (EC) No 834/2007, the inclusion should be prolonged for an unlimited period.
- (3) By Commission Implementing Regulation (EU) No 586/2013 ⁽³⁾ the control body NOCA Pvt. Ltd, Pune was removed from the entry for India in Annex III to Regulation (EC) No 1235/2008 following information from India concerning the suspension of that control body. The competent authority of India notified the Commission of the end of that suspension, as well as of the approval of a new control body, M/S. Faircert Certification Services Pvt Ltd, Khargone. Those control bodies should therefore be added to the entry for India in Annex III to Regulation (EC) No 1235/2008.
- (4) On the basis of information received by the Commission showing that the control body SGS India Pvt. Ltd does not respect the scope of recognition of India as regards the products that can be imported, that control body should be removed from the entry for India in Annex III to Regulation (EC) No 1235/2008.
- (5) The competent authority of Japan has notified the Commission of the changes concerning two recognised control bodies, as well as of five newly approved control bodies which should be reflected in the entry for Japan in Annex III to Regulation (EC) No 1235/2008.
- (6) The duration of inclusion of Tunisia in the list set out in Annex III to Regulation (EC) No 1235/2008 ends on 30 June 2014. The findings of the supervision performed by the Commission indicated a need to improve the supervision of the control system by the Tunisian competent authority. Corrective actions have been taken by Tunisia and progress was made. The inclusion should be prolonged until 30 June 2015 with a view to verify the enforcement of some measures announced.
- (7) The Commission has examined the requests for inclusion in the list set out in Annex IV to Regulation (EC) No 1235/2008, received by 31 October 2013. Control bodies and control authorities in respect of which the subsequent examination of all information received led to the conclusion that they complied with the relevant requirements should be included in that list.

⁽¹⁾ OJ L 189, 20.7.2007, p. 1.⁽²⁾ Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (OJ L 334, 12.12.2008, p. 25).⁽³⁾ Commission Implementing Regulation (EU) No 586/2013 of 20 June 2013 amending Regulation (EC) No 1235/2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries and derogating from Regulation (EC) No 1235/2008 as regards the date of submission of the annual report (OJ L 169, 21.6.2013, p. 51).

- (8) Annexes III and IV to Regulation (EC) No 1235/2008 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the regulatory Committee on organic production,

HAS ADOPTED THIS REGULATION:

Article 1

Annex III to Regulation (EC) No 1235/2008 is amended in accordance with Annex I to this Regulation.

Article 2

Annex IV to Regulation (EC) No 1235/2008 is amended in accordance with Annex II to this Regulation.

Article 3

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

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

Done at Brussels, 16 June 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX I

Annex III to Regulation (EC) No 1235/2008 is amended as follows:

(1) In the entry relating to Canada, point 7 is replaced by the following:

‘7. **Duration of the inclusion:** unspecified.’

(2) Point 5 of the entry relating to India is amended as follows:

(a) The row for IN-ORG-013 is deleted.

(b) The following row is inserted after the row for IN-ORG-010:

‘IN-ORG-011	Natural Organic Certification Agro Pvt. Ltd	www.nocaagro.com’
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(c) The following row is added:

‘IN-ORG-023	Faircert Certification Services Pvt Ltd	www.faircert.com’
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(3) Point 5 of the entry relating to Japan is amended as follows:

(a) The row for JP-BIO-006 is replaced by the following:

‘JP-BIO-006	Ecocert Japan Limited	www.ecocert.co.jp’
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(b) The row for JP-BIO-023 is replaced by the following:

‘JP-BIO-023	Rice Research Organic Food Institute	www.inasaku.or.tv’
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(c) After the row for JP-BIO-030, the following rows are added:

‘JP-BIO-031	Wakayama Organic Certified Association	www.vaw.ne.jp/aso/woca
JP-BIO-032	Shimane Organic Agriculture Association	www.shimane-yuki.or.jp/index.html
JP-BIO-033	The Mushroom Research Institute of Japan	www.kinoko.or.jp
JP-BIO-034	International Nature Farming Research Center	www.infrc.or.jp
JP-BIO-035	Organic Certification Center	www.organic-cert.or.jp’

(4) The entry relating to Tunisia is amended as follows:

(a) In point 5, the row for TN-BIO-006 is replaced by the following:

‘TN-BIO-006	Institut National de la Normalisation et de la Propriété Industrielle (INNORPI)	www.innorpi.tn’
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(b) Point 7 is replaced by the following:

‘7. **Duration of the inclusion:** 30 June 2015.’

ANNEX II

Annex IV to Regulation (EC) No 1235/2008 is amended as follows:

- (1) In the entry relating to '**Afrisco Certified Organic, CC**', point 4 is replaced by the following:

'4. Exceptions: in-conversion products.'

- (2) In the entry relating to '**ARGENCERT SA**', points 3 and 4 are replaced by the following:

'3. Third countries, code numbers and product categories concerned:

Third country	Code number	Category of products					
		A	B	C	D	E	F
Argentina	AR-BIO-138	—	—	—	x	—	—
Chile	CL-BIO-138	x	—	—	x	—	—
Paraguay	PY-BIO-138	x	—	—	x	—	—
Uruguay	UY-BIO-138	x	—	—	x	—	—

4. Exceptions: in-conversion products, products covered by Annex III.'

- (3) The entry relating to '**Caucacert Ltd**' is amended as follows:

(a) Point 1 is replaced by the following:

'1. Address: 2, Marshal Gelovani Street, 5th floor, Suite 410, Tbilisi 0159, Georgia.'

(b) Point 4 is replaced by the following:

'4. Exceptions: in-conversion products.'

- (4) In the entry relating to '**Ceres Certification of Environment standards GmbH**', point 4 is replaced by the following:

'4. Exceptions: in-conversion products.'

- (5) In the entry relating to '**Control Union Certifications**', points 3 and 4 are replaced by the following:

'3. Third countries, code numbers and product categories concerned:

Third country	Code number	Category of products					
		A	B	C	D	E	F
Afghanistan	AF-BIO-149	x	x	x	x	—	—
Albania	AL-BIO-149	x	x	x	x	—	—
Bermuda	BM-BIO-149	x	x	x	x	—	—
Bhutan	BT-BIO-149	x	x	x	x	—	—
Brazil	BR-BIO-149	x	—	—	x	—	—
Burkina Faso	BF-BIO-149	x	x	x	x	—	—
Burma/Myanmar	MM-BIO-149	x	x	x	x	—	—
Cambodia	KH-BIO-149	x	x	x	x	—	—
Canada	CA-BIO-149	—	—	x	—	—	—
China	CN-BIO-149	x	x	x	x	—	—

Third country	Code number	Category of products					
		A	B	C	D	E	F
Colombia	CO-BIO-149	x	x	x	x	—	—
Costa Rica	CR-BIO-149	—	x	x	—	—	—
Côte d'Ivoire	CI-BIO-149	x	x	x	x	—	—
Dominican Republic	DO-BIO-149	x	x	x	x	—	—
Ecuador	EC-BIO-149	x	x	x	x	—	—
Egypt	EG-BIO-149	x	x	x	x	—	—
Ethiopia	ET-BIO-149	x	x	x	x	—	—
Ghana	GH-BIO-149	x	x	x	x	—	—
Guinea	GN-BIO-149	x	—	—	x	—	—
Honduras	HN-BIO-149	x	x	x	x	—	—
Hong Kong	HK-BIO-149	x	x	x	x	—	—
India	IN-BIO-149	—	x	x	x	—	—
Indonesia	ID-BIO-149	x	x	x	x	—	—
Iran	IR-BIO-149	x	x	x	x	—	—
Israel	IL-BIO-149	—	x	x	—	—	—
Japan	JP-BIO-149	—	x	x	—	—	—
South Korea	KR-BIO-149	x	x	x	x	—	—
Kyrgyzstan	KG-BIO-149	x	x	x	x	—	—
Laos	LA-BIO-149	x	x	x	x	—	—
Former Yugoslav Republic of Macedonia	MK-BIO-149	x	x	x	x	—	—
Malaysia	MY-BIO-149	x	x	x	x	—	—
Mali	ML-BIO-149	x	x	x	x	—	—
Mauritius	MU-BIO-149	x	x	x	x	—	—
Mexico	MX-BIO-149	x	x	x	x	—	—
Moldova	MD-BIO-149	x	x	x	x	—	—
Mozambique	MZ-BIO-149	x	x	x	x	—	—
Nepal	NP-BIO-149	x	x	x	x	—	—
Nigeria	NG-BIO-149	x	x	x	x	—	—

Third country	Code number	Category of products					
		A	B	C	D	E	F
Pakistan	PK-BIO-149	x	x	x	x	—	—
Occupied Palestinian territory	PS-BIO-149	x	x	x	x	—	—
Panama	PA-BIO-149	x	x	x	x	—	—
Paraguay	PY-BIO-149	x	x	x	x	—	—
Peru	PE-BIO-149	x	x	x	x	—	—
Philippines	PH-BIO-149	x	x	x	x	—	—
Rwanda	RW-BIO-149	x	x	x	x	—	—
Serbia	RS-BIO-149	x	x	x	x	—	—
Sierra Leone	SL-BIO-149	—	x	x	—	—	—
Singapore	SG-BIO-149	x	x	x	x	—	—
South Africa	ZA-BIO-149	x	x	x	x	—	—
Sri Lanka	LK-BIO-149	x	x	x	x	—	—
Switzerland	CH-BIO-149	—	—	x	—	—	—
Syria	SY-BIO-149	x	x	x	x	—	—
Tanzania	TZ-BIO-149	x	x	x	x	—	—
Thailand	TH-BIO-149	x	x	x	x	—	—
Timor-Leste	TL-BIO-149	x	x	x	x	—	—
Turkey	TR-BIO-149	x	x	x	x	—	—
Uganda	UG-BIO-149	x	x	x	x	—	—
Ukraine	UA-BIO-149	x	x	x	x	—	—
United Arab Emirates	AE-BIO-149	x	x	x	x	—	—
United States	US-BIO-149	—	—	x	—	—	—
Uruguay	UY-BIO-149	x	x	x	x	—	—
Uzbekistan	UZ-BIO-149	x	x	x	x	—	—
Vietnam	VN-BIO-149	x	x	x	x	—	—
Zambia	ZN-BIO-149	x	x	x	x	—	—

4. Exceptions: in-conversion products, products covered by Annex III.'

(6) In the entry relating to '**Ecoglobe**', point 1 is replaced by the following:

'1. Address: 1, Aram Khachatryan Street, apt. 66, 0033 Yerevan, Armenia.'

- (7) In the entry relating to '**Ekolojik Tarim Kontrol Organizasyonu**', point 3 is replaced by the following:

'3. Third countries, code numbers and product categories concerned:

Third country	Code number	Category of products					
		A	B	C	D	E	F
Azerbaijan	AZ-BIO-109	x	—	—	x	—	—
Cote d'Ivoire	CI-BIO-109	x	—	—	x	—	—
Ethiopia	ET-BIO-109	x	—	—	x	—	—
Georgia	GE-BIO-109	x	—	—	x	—	—
Kazakhstan	KZ-BIO-109	x	—	—	x	x	—
Kyrgyzstan	KG-BIO-109	x	—	—	x	—	—
Russia	RU-BIO-109	x	—	—	x	x	—
Serbia	RS-BIO-109	x	x	—	x	x	—
Tadzhikistan	TJ-BIO-109	x	—	—	x	—	—
Turkey	TR-BIO-109	x	x	—	x	x	—
Ukraine	UA-BIO-109	x	x	—	x	x	—
Uzbekistan	UZ-BIO-109	x	—	—	x	—	—'

- (8) In the entry relating to '**Florida Certified Organic Growers and Consumers, Inc. (FOG), DBA as Quality Certification Services (QCS)**', point 3 is replaced by the following:

'3. Third countries, code numbers and product categories concerned:

Third country	Code number	Category of products					
		A	B	C	D	E	F
Bahamas	BS-BIO-144	x	—	—	x	—	x
China	CN-BIO-144	x	—	x	x	—	x
Dominican Republic	DO-BIO-144	x	—	x	x	—	x
Ecuador	EC-BIO-144	x	—	x	—	x	x
Guatemala	GT-BIO-144	x	—	—	x	—	—
Honduras	HN-BIO-144	x	—	x	x	x	—
Malaysia	MY-BIO-144	x	—	—	x	—	x
Mexico	MX-BIO-144	x	—	—	x	—	x
Nicaragua	NI-BIO-144	x	—	x	x	—	x
Peru	PE-BIO-144	x	—	—	x	—	x

Third country	Code number	Category of products					
		A	B	C	D	E	F
Philippines	PH-BIO-144	x	—	x	x	—	x
El Salvador	SV-BIO-144	x	—	x	x	—	x
South Africa	ZA-BIO-144	x	—	—	x	—	x
Taiwan	TW-BIO-144	x	—	x	x	—	x
Turkey	TR-BIO-144	x	—	—	x	—	x'

(9) In the entry relating to '**IMO-Control Sertifikasyon Tic. Ltd Şti**', point 3 is replaced by the following:

'3. Third countries, code numbers and product categories concerned:

Third country	Code number	Category of products					
		A	B	C	D	E	F
Afghanistan	AF-BIO-158	x	—	—	x	—	—
Azerbaijan	AZ-BIO-158	x	—	—	x	—	—
Georgia	GE-BIO-158	x	—	—	—	—	—
Kazakhstan	KZ-BIO-158	x	—	—	—	x	—
Kyrgyz Republic	KG-BIO-158	x	—	—	x	—	—
Russia	RU-BIO-158	x	—	—	—	x	—
Tajikistan	TJ-BIO-158	x	—	—	x	—	—
Turkey	TR-BIO-158	x	—	—	x	—	—
Turkmenistan	TM-BIO-158	x	—	—	x	—	—
Ukraine	UA-BIO-158	x	—	—	x	x	—
Uzbekistan	UZ-BIO-158	x	—	—	x	—	—
United Arab Emirates	AE-BIO-158	—	—	—	—	x	—'

(10) In the entry relating to '**Indocert**', points 3 and 4 are replaced by the following:

'3. Third countries, code numbers and product categories concerned:

Third country	Code number	Category of products					
		A	B	C	D	E	F
India	IN-BIO-148	—	—	x	x	x	—
Sri Lanka	LK-BIO-148	x	—	—	—	—	—
Cambodia	KH-BIO-148	x	—	—	—	—	—

4. Exceptions: in-conversion products, products covered by Annex III.'

(11) In the entry relating to '**NASAA Certified Organic Pty Ltd**', points 3 and 4 are replaced by the following:

'3. Third countries, code numbers and product categories concerned:

Third country	Code number	Category of products					
		A	B	C	D	E	F
Australia	AU-BIO-119	—	—	—	x	—	—
Indonesia	ID-BIO-119	x	—	—	x	—	—
Malaysia	MY-BIO-119	x	—	—	x	—	—
Nepal	NP-BIO-119	x	—	—	x	—	—
Papua New Guinea	PG-BIO-119	x	—	—	x	—	—
Samoa	WS-BIO-119	x	—	—	x	—	—
Singapore	SG-BIO-119	x	—	—	x	—	—
Solomon Islands	SB-BIO-119	x	—	—	x	—	—
Sri Lanka	LK-BIO-119	x	—	—	x	—	—
Timor-Leste	TL-BIO-119	x	—	—	x	—	—
Tonga	TO-BIO-119	x	—	—	x	—	—

4. Exceptions: in-conversion products, and products covered by Annex III.'

(12) In the entry relating to '**SGS Austria Controll-Co. GmbH**', point 4 is replaced by the following:

'4. Exceptions: in-conversion products.'

(13) In the entry relating to '**Organic crop improvement association**', point 3 is replaced by the following:

'3. Third countries, code numbers and product categories concerned:

Third country	Code number	Category of products					
		A	B	C	D	E	F
Canada	CA-BIO-120	x	—	—	x	—	—
Guatemala	GT-BIO-120	x	x	—	x	—	—
Japan	JP-BIO-120	x	x	—	x	—	—
Mexico	MX-BIO-120	x	x	—	x	—	—
Nicaragua	NI-BIO-120	x	x	—	x	—	—
Peru	PE-BIO-120	x	x	—	x	—	—
El Salvador	SV-BIO-120	x	x	—	x	—	—'

(14) In the entry relating to '**Soil Association Certification Limited**', point 3 is replaced by the following:

'3. Third countries, code numbers and product categories concerned:

Third country	Code number	Category of products					
		A	B	C	D	E	F
Belize	BZ-BIO-142	x	—	—	x	—	—
Cameroon	CM-BIO-142	—	x	—	x	—	—
Colombia	CO-BIO-142	—	—	—	x	—	—
Egypt	EG-BIO-142	x	—	—	x	—	—
Ghana	GH-BIO-142	x	—	—	x	—	—
Iran	IR-BIO-142	x	—	—	x	—	—
Kenya	KE-BIO-142	x	—	—	x	—	—
South Africa	ZA-BIO-142	x	x	—	x	—	—
Thailand	TH-BIO-142	x	—	—	x	—	—
Uganda	UG-BIO-142	x	—	—	x	—	—
Venezuela	VE-BIO-142	x	—	—	—	—	—'

COMMISSION IMPLEMENTING REGULATION (EU) No 645/2014**of 16 June 2014****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 16 June 2014.

*For the Commission,
On behalf of the President,
Jerzy PLEWA*

Director-General for Agriculture and Rural Development

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MK	76,2
	TR	55,3
	ZZ	65,8
0707 00 05	MK	39,0
	TR	97,7
	ZZ	68,4
0709 93 10	TR	110,3
	ZA	27,3
	ZZ	68,8
0805 50 10	AR	122,2
	TR	71,0
	ZA	111,6
	ZZ	101,6
0808 10 80	AR	101,4
	BR	83,1
	CA	102,6
	CL	99,4
	CN	98,4
	NZ	135,2
	US	183,9
	UY	168,2
	ZA	126,2
	ZZ	122,0
	0809 10 00	TR
ZZ		257,3
0809 29 00	TR	345,8
	ZZ	345,8
0809 30	MA	135,6
	ZZ	135,6

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COUNCIL DECISION

of 5 June 2014

on the position to be taken by the European Union within the ACP-EU Council of Ministers regarding the revision of Annex IV to the ACP-EC Partnership Agreement

(2014/361/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 209(2) in conjunction with Article 218(9) thereof,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part, signed in Cotonou on 23 June 2000 ⁽¹⁾ (hereinafter referred to as the 'ACP-EC Partnership Agreement'),

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 100 of the ACP-EC Partnership Agreement states that Annexes Ia, Ib, II, III, IV and VI to the ACP-EC Partnership Agreement may be revised, reviewed and/or amended by the ACP-EU Council of Ministers on the basis of a recommendation from the ACP-EU Development Finance Cooperation Committee.
- (2) International commitments toward aid effectiveness were taken by the Parties to the ACP-EC Partnership Agreement in Busan, Accra and at the OECD-DAC in Paris in 2010.
- (3) The rules of nationality and origin could be further improved in line with those international commitments.
- (4) Clarification and simplification of the provisions of Annex IV to the ACP-EC Partnership Agreement could improve the efficiency of the implementation of the EDF,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the ACP-EU Council of Ministers regarding the revision of Annex IV to the ACP-EC Partnership Agreement shall be based on the draft Decision of the ACP-EU Council of Ministers annexed hereto.

Article 2

After its adoption, the Decision of the ACP-EU Council of Ministers shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 5 June 2014.

For the Council
The President
N. DENDIAS

⁽¹⁾ OJ L 317, 15.12.2000, p. 3. Agreement as amended by the Agreement signed in Luxembourg on 25 June 2005 (OJ L 287, 28.10.2005, p. 4) and by the Agreement signed in Ouagadougou on 22 June 2010 (OJ L 287, 4.11.2010, p. 3).

DRAFT

DECISION OF THE ACP-EU COUNCIL OF MINISTERS**of****regarding the revision of Annex IV to the ACP-EC Partnership Agreement**

THE ACP-EU COUNCIL OF MINISTERS

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 ⁽¹⁾ as amended in Luxembourg on 25 June 2005 ⁽²⁾ and in Ouagadougou on 22 June 2010 ⁽³⁾ (the 'ACP-EC Partnership Agreement'), and in particular Article 100 thereof,

Whereas:

- (1) Article 100 of the ACP-EC Partnership Agreement states that Annexes Ia, Ib, II, III, IV and VI to the ACP-EC Partnership Agreement may be revised, reviewed and/or amended by the ACP-EU Council of Ministers on the basis of a recommendation from the ACP-EU Development Finance Cooperation Committee.
- (2) International commitments toward aid effectiveness were taken by the Parties to the ACP-EC Partnership Agreement in Busan, Accra and at the OECD-DAC in Paris in 2010.
- (3) The rules of nationality and origin could be further improved in line with the abovementioned international commitments.
- (4) Clarification and simplification of the provisions of Annex IV to the ACP-EC Partnership Agreement could improve the efficiency of the implementation of the EDF,

HAS ADOPTED THIS DECISION:

Article 1

Annex IV to the ACP-EC Partnership Agreement is amended as follows:

- (1) In Article 19C, paragraph 5 is replaced by the following:

'5. Pursuant to the commitment referred to in Articles 32(1)(a) and Article 50 of this Agreement, contracts and grants financed from resources from the multi-annual financial framework of cooperation with the ACP shall be performed in accordance with applicable environmental legislation and internationally recognised basic standards in the field of labour law;'

- (2) Article 20(1) is replaced by the following:

'1. Participation in procedures for the awarding of procurement contracts or grants financed from the multi-annual financial framework of cooperation under this Agreement shall be open to all natural persons who are nationals of, or legal persons who are effectively established in:

- a. an ACP State, a Member State of the European Community, beneficiaries of the Instrument for pre-accession assistance of the European Community, a Member State of the European Economic Area, and overseas countries and territories covered by Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (*);
- b. developing countries and territories, as included in the OECD-DAC list of ODA Recipients, which are not members of the G-20 group, without prejudice to the status of the Republic of South Africa, as governed by Protocol 3;
- c. countries for which reciprocal access to external assistance has been established by the Commission in agreement with ACP countries;

⁽¹⁾ OJ L 317, 15.12.2000, p. 3. Agreement as rectified by OJ L 385, 29.12.2004, p. 88.

⁽²⁾ OJ L 209, 11.8.2005, p. 27.

⁽³⁾ OJ L 287, 4.11.2010, p. 3.

Reciprocal access may be granted, for a limited period of at least one year, whenever a country grants eligibility on equal terms to entities from the Community and from countries eligible under this Article;

- d. Member State of the OECD, in the case of contracts implemented in a Least Developed Country (LDC) or a Highly Indebted Poor Country (HIPC), as included in the OECD-DAC list of ODA Recipients published by the OECD-DAC.

(*) OJ L 344, 19.12.2013, p. 1.;

- (3) In Article 20, paragraph 1a is deleted;

- (4) Article 20(3) is replaced by the following:

‘3. All supplies and materials purchased under a procurement contract, or in accordance with a grant agreement, financed from the multi-annual financial framework of cooperation under this Agreement shall originate from an eligible country, as defined in this Article.

However, they may originate from any State when the amount value of the supplies and materials to be purchased is below the threshold for the use of the competitive negotiated procedure, established in accordance with paragraph 1 of Article 19C.

In this context, the definition of the concept of “originating products” shall be assessed by reference to the relevant international agreements, and supplies originating in the Community shall include supplies originating in the Overseas Countries and Territories.’;

- (5) Article 20(5) is replaced by the following:

‘5. Whenever the multi-annual financial framework of cooperation under this Agreement finances an operation implemented through an international organisation, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons who are eligible under paragraph 1, and to all natural and legal persons who are eligible according to the rules of the organisation, care being taken to ensure equal treatment of all donors. The same rules apply for supplies and materials.’;

- (6) Article 20(6) is replaced by the following:

‘6. Whenever the multi-annual financial framework of cooperation under this Agreement finances an operation implemented as part of a regional initiative, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons who are eligible under paragraph 1, and to all natural and legal persons from a country participating in the relevant initiative. The same rules apply for supplies and materials.’;

- (7) Article 20(7) is replaced by the following:

‘7. Whenever the multi-annual financial framework of cooperation under this Agreement finances an operation jointly co-financed with a partner or other donor or implemented through any Trust Fund established by the Commission, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons who are eligible under paragraph 1 and to all natural and legal persons eligible under the rules of that partner, other donor or under the rules determined in the Trust Fund constitutive act.

In the case of actions implemented through entrusted bodies, which are Member States or their agencies, the European Investment Bank or through international organisations or their agencies, natural and legal persons who are eligible under the rules of that entrusted body, as identified in the agreements concluded with the co-financing or implementing body shall also be eligible. The same rules apply for supplies and materials.’;

- (8) In Article 20, the following new paragraphs 8 and 9 are added:

‘8. Whenever the multi-annual financial framework of cooperation under this Agreement finances an operation co-financed under another EU financial Instrument, participation in procedures for the awarding of procurement contracts or grants shall be open to all natural and legal persons who are eligible under paragraph 1, and to all natural and legal persons eligible under any of these Instruments. The same rules apply for supplies and materials.

9. Eligibility as defined in this Article may be restricted with regard to the nationality, localisation or nature of applicants where required by the nature and the objectives of the action and as necessary for its effective implementation.’;

(9) Article 22(1) is replaced by the following:

'1. Tenderers, applicants and candidates from third countries not eligible under Article 20 may be authorised to participate in procedures for the awarding of procurement contracts or grants financed by the Community from the multiannual financial framework of cooperation under this Agreement or supplies and materials from non-eligible origin may be accepted as eligible at the justified request of the ACP States or the relevant organisation or body at regional or intra-ACP level in the case of:

- (a) countries having traditional economic, trade or geographical links with neighbouring beneficiary countries, or
- (b) urgency or unavailability of products and services in the markets of the countries concerned, or other duly substantiated cases where the eligibility rules would make the realisation of a project, a programme or an action impossible or exceedingly difficult.

The ACP State or the relevant organisation or body at regional or intra-ACP level shall, on each occasion, provide the Commission with the information needed to decide on such derogation.;

(10) Article 26(1)(a) is replaced by the following:

'(a) for works contracts of a value of less than EUR 5 000 000, tenderers of the ACP States, provided that at least one quarter of the capital stock and management staff originates from one or more ACP States, shall be accorded a 10 % price preference during the financial evaluation;';

(11) Article 26(1)(b) is replaced by the following:

'(b) for supply contracts of a value of less than EUR 300 000, tenderers of the ACP States, either individually or in a consortium with European partners, shall be accorded a 15 % price preference during the financial evaluation;';

(12) Article 26(1)(c) is replaced by the following:

'(c) in respect of service contracts other than the European Commission's Framework contracts, when technical offers are evaluated, a preference shall be given to tenders submitted by legal or natural persons of ACP States, either individually or in a consortium among them.;

(13) Article 26(2) is replaced by the following:

'2. Without prejudice to the provisions in paragraph 1, where two tenders for works, supplies or service contracts are acknowledged to be equivalent, preference shall be given:

- (a) to the tenderer of an ACP State; or
- (b) if no such tender is forthcoming, to the tenderer who:
 - (i) allows for the best possible use of the physical and human resources of the ACP States;
 - (ii) offers the greatest subcontracting possibilities for ACP companies, firms or natural persons; or
 - (iii) is a consortium of natural persons, companies and firms from ACP States and the Community.;

Article 2

This Decision shall enter into force on the date of its adoption.

Done at ...,

*For the ACP-EU Council of Ministers
The Chair*

COMMISSION IMPLEMENTING DECISION

of 13 June 2014

amending Decision 2009/109/EC on the organisation of a temporary experiment providing for certain derogations for the marketing of seed mixtures intended for use as fodder plants pursuant to Council Directive 66/401/EEC

(notified under document C(2014) 3788)

(Text with EEA relevance)

(2014/362/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed ⁽¹⁾, and in particular Article 13a thereof,

Whereas:

- (1) Commission Decision 2009/109/EC ⁽²⁾ sets out the organisation, until 31 May 2014, of a temporary experiment allowing for the marketing of seed mixtures intended for use as fodder plants which also include certain species not listed in Council Directive 66/401/EEC, Council Directive 66/402/EEC ⁽³⁾, Council Directive 2002/55/EC ⁽⁴⁾ or Council Directive 2002/57/EC ⁽⁵⁾, with the aim to verify whether such species fulfil the requirements to be included in Article 2(1)(A) of Directive 66/401/EEC.
- (2) Information regarding the production, certification conditions and marketing acceptance of seed mixtures for feed use is still insufficient and needs to be completed and consolidated. It is therefore necessary to extend the duration of the temporary experiment.
- (3) Since the beginning of the temporary experiment and as a result of research and development projects, several other species are now being studied and considered of interest in future mixtures. The species *Lathyrus cicera*, *Medicago doliata* and *Trifolium isthmocarpum* should therefore be included in the scope of the experiment.
- (4) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2009/109/EC is amended as follows:

- (1) Article 1 is replaced by the following:

'Article 1

Subject matter

A temporary experiment is organised at Union level to assess whether the following species: *Biserrula pelecinus*, *Lathyrus cicera*, *Lotus glaber*, *Lotus uliginosus*, *Medicago doliata*, *Medicago italica*, *Medicago littoralis*, *Medicago murex*, *Medicago polymorpha*, *Medicago rugosa*, *Medicago scutellata*, *Medicago truncatula*, *Ornithopus compressus*, *Ornithopus sativus*, *Plantago lanceolata*, *Trifolium fragiferum*, *Trifolium glanduliferum*, *Trifolium hirtum*, *Trifolium isthmocarpum*, *Trifolium michelianum*, *Trifolium squarrosum*, *Trifolium subterraneum*, *Trifolium vesiculosum* and *Vicia benghalensis* (hereinafter the species referred to in Article 1), can be marketed as or in seed mixtures, for the purpose of deciding whether some or all of those species should be included in the list of fodder plants in Article 2(1)(A) of Directive 66/401/EEC.;

⁽¹⁾ OJ L 125, 11.7.1966, p. 2298/66.

⁽²⁾ Commission Decision 2009/109/EC of 9 February 2009 on the organisation of a temporary experiment providing for certain derogations for the marketing of seed mixtures intended for use as fodder plants pursuant to Council Directive 66/401/EEC to determine whether certain species not listed in Council Directives 66/401/EEC, 66/402/EEC, 2002/55/EC or 2002/57/EC fulfil the requirements for being included in Article 2(1)(A) of Directive 66/401/EEC (OJ L 40, 11.2.2009, p. 26).

⁽³⁾ Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed (OJ L 125, 11.7.1966, p. 2309/66).

⁽⁴⁾ Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed (OJ L 193, 20.7.2002, p. 33).

⁽⁵⁾ Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants (OJ L 193, 20.7.2002, p. 74).

(2) in Article 9 the words '31 May 2014' are replaced by '31 May 2016';

(3) in Annex I the following entries shall be added to the table:

1	2	3	4	5	6	7
<i>Lathyrus cicera</i>	80	95	1,0	(c) (d) (e)	25	1 000
<i>Medicago doliaata</i>	70	98	2,0	(c) (d) (e)	10	100
<i>Trifolium isthmocarpum</i>	70 (including hard seeds)	98	1,0	(c) (d) (e)	10	100'

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 13 June 2014.

For the Commission
Tonio BORG
Member of the Commission

COMMISSION DECISION
of 13 June 2014
amending Decision 2007/742/EC on electrically driven, gas driven or gas absorption heat pumps
(notified under document C(2014) 3838)

(Text with EEA relevance)

(2014/363/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel ⁽¹⁾, and in particular point (c) of Article 8(3) thereof,

After consulting the European Union Eco-Labeling Board,

Whereas:

- (1) Air/brine/water-to-water heat pumps that provide heat to a water-based central heating system are in scope of Commission Decision 2014/314/EU of 28 May 2014 establishing the ecological criteria for the award of the EU Ecolabel for water-based heaters ⁽²⁾.
- (2) Commission Decision 2007/742/EC of 9 November 2007 establishing the ecological criteria for the award of the Community eco-label to electrically driven, gas driven or gas absorption heat pumps ⁽³⁾ expires on 31 October 2014.
- (3) An assessment has been carried out to evaluate the relevance and appropriateness of the current ecological criteria, as well as of the related assessment and verification requirements, established by this Decision. Given the different stages of the revision process for this Decision, it is appropriate to prolong the period of validity of the ecological criteria and the related assessment and verification requirements which it sets out. The period of validity of the ecological criteria and the related assessment and verification requirements set out in Decision 2007/742/EC should be prolonged until 31 December 2016.
- (4) The measures provided for in this Decision are in accordance with the opinion of the Committee set up by Article 16 of Regulation (EC) No 66/2010.
- (5) Decision 2007/742/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/742/EC is amended as follows:

1. In the third paragraph of Article 1, the following point (c) is added:

‘(c) heat pumps which provide heat to a water based central heating system’

2. In Article 4, ‘31 October 2014’ is replaced by ‘31 December 2016’

⁽¹⁾ OJ L 27, 30.1.2010, p. 1.

⁽²⁾ OJ L 164, 3.6.2014, p. 83.

⁽³⁾ OJ L 301, 20.11.2007, p. 14.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 13 June 2014.

For the Commission
Janez POTOČNIK
Member of the Commission

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