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⁽¹⁾ Text with EEA relevance

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II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EURATOM) No 139/2012

of 19 December 2011

laying down the rules for the participation of undertakings, research centres and universities in indirect actions under the Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2012-2013)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 7 and 10 thereof,

Having regard to the proposal from the European Commission submitted after consultation of the Scientific and Technical Committee,

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

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

Having regard to the Opinion of the Court of Auditors,

Whereas:

- (1) The Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) (hereinafter 'the Framework Programme'), was adopted by Council Decision 2012/93/Euratom ⁽³⁾. It is the responsibility of the Commission to ensure the implementation of the Framework Programme and its specific programmes, including the related financial aspects.
- (2) The Framework Programme should be implemented in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾ (hereinafter 'the Financial Regulation') and Commission Regulation (EC, Euratom)

No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁵⁾.

- (3) The Framework Programme should also be implemented in accordance with the State aid rules, in particular the rules on State aid for research and development, currently the Community framework for state aid for research and development and innovation ⁽⁶⁾.
- (4) The Framework Programme retains the overall scope and principles as regards the Seventh Framework Programme of the Community adopted by Council Decision 2006/970/Euratom of 18 December 2006 concerning the Seventh Framework Programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities (2007 to 2011) ⁽⁷⁾.
- (5) The rules for the participation of undertakings, research centres and universities should provide a coherent, comprehensive and transparent framework to ensure the most efficient implementation possible, taking into account the need for easy access for all participants through simplified procedures, in accordance with the principle of proportionality.
- (6) The Framework Programme should benefit from the Commission initiative to simplify the implementation of the research framework programmes included in the Commission Decision C(2011) 174 of 24 January 2011 on three measures for simplifying the implementation of Decision No 1982/2006/EC of the European Parliament and of the Council and Council Decision 2006/970/Euratom. This Commission Decision modifies the model grant agreement adopted under Decision 2006/970/Euratom.

⁽¹⁾ Opinion of 15 November 2011 (not yet published in the Official Journal). Opinion delivered following non-compulsory consultation.

⁽²⁾ OJ C 318, 29.10.2011, p. 127. Opinion delivered following non-compulsory consultation.

⁽³⁾ See page 25 of this Official Journal.

⁽⁴⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁵⁾ OJ L 357, 31.12.2002, p. 1.

⁽⁶⁾ OJ C 323, 30.12.2006, p. 1.

⁽⁷⁾ OJ L 400, 30.12.2006, p. 60.

- (7) These rules should continue to facilitate the exploitation of intellectual property developed by participants, also taking into account the way in which the participant may be organised internationally, while protecting legitimate interests of the other participants and the Community.
- (8) The Framework Programme should promote participation from the outermost regions of the Union, as well as from a wide range of undertakings, research centres and universities.
- (9) The definition of micro, small and medium-sized enterprises (SMEs) given in the Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises ⁽¹⁾ should apply to ensure coherence and transparency.
- (10) The minimum conditions for participation need to be established, both as a general rule and for specific indirect actions under the Framework Programme.
- (11) Any legal entity should be free to participate once the minimum conditions have been satisfied. Participation over and above the minimum should ensure the efficient implementation of the indirect action concerned.
- (12) International organisations dedicated to developing cooperation in the field of nuclear research and training in Europe and largely made up of Member States or associated countries should be encouraged to participate in the Framework Programme.
- (13) The participation of legal entities established in third countries and the participation of international organisations should also be envisaged, as enshrined in Article 101 of the Treaty. However, such participation should be justified in terms of the enhanced contribution made to the objectives of the Framework Programme.
- (14) In accordance with Article 198 of the Treaty, legal entities of Member States' non-European territories under their jurisdiction are eligible for the Framework Programme.
- (15) It is necessary to establish the terms and conditions for providing Community funding to participants in indirect actions.
- (16) It is necessary for the Commission to establish further rules and procedures, in addition to those provided for in the Financial Regulation and Regulation (EC, Euratom)
- No 2342/2002 and in this Regulation, to govern the submission, evaluation and selection of proposals and the award of grants, as well as redress procedures for participants. In particular, rules should be established for the use of independent experts.
- (17) The duration of the Framework Programme is limited to 2 years, whereas the Seventh Framework Programme of the Union, adopted by Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) ⁽²⁾, with similar rules to the Seventh Framework Programme of the Community, will be in force in parallel until the end of 2013. It is thus appropriate to apply similar rules to those for the Seventh Framework Programme of the Union and avoid major changes for participants.
- (18) The Commission should establish further rules and procedures under the Framework Programme in addition to those provided for in the Financial Regulation and Regulation (EC, Euratom) No 2342/2002, to govern the assessment of the legal and financial viability of participants in indirect actions under the Framework Programme. Such rules should strike the right balance between protecting the Union's financial interests and simplifying and facilitating the participation of legal entities in the Framework Programme. In order to ensure consistent verification of the existence and legal status of participants, as well as their operational and financial capacities, in indirect actions and to avoid major changes for the participants it is advisable to apply to the Framework Programme the Rules to ensure consistent verification of the existence and legal status of participants, as well as their operational and financial capacities, in indirect actions supported through the form of a grant under the Seventh Framework Programme of the Union and the Seventh Framework Programme of the Community, adopted by Commission Decision C(2007) 2466 of 13 June 2007.
- (19) In this context, the Financial Regulation and Regulation (EC, Euratom) No 2342/2002 and Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests ⁽³⁾, govern, inter alia, the protection of the Union's financial interests, the fight against fraud and irregularity, the procedures for the recovery of sums owed to the Commission, exclusion from contract and grant procedures and related penalties, and audits, checks, and inspections by the Commission and the Court of Auditors.
- (20) The Community financial contribution should reach participants without undue delay.

⁽¹⁾ OJ L 124, 20.5.2003, p. 36.

⁽²⁾ OJ L 412, 30.12.2006, p. 1.

⁽³⁾ OJ L 312, 23.12.1995, p. 1.

- (21) The agreements concluded for each action should provide for supervision and financial control by the Commission, or any representative authorised by the Commission, as well as audits by the Court of Auditors and on-the-spot checks carried out by the European Anti-Fraud Office (OLAF), in accordance with the procedures laid down in Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities⁽¹⁾.
- (22) The Commission should monitor both the indirect actions carried out under the Framework Programme and the Framework Programme and its specific programmes. With a view to ensuring efficient and coherent monitoring and evaluation of the implementation of indirect actions, the Commission should set-up and maintain an appropriate information system.
- (23) The Framework Programme should reflect and promote the general principles laid down in Commission Recommendation 2005/251/EC of 11 March 2005 on the European Charter for Researchers and Code of Conduct for the Recruitment of Researchers⁽²⁾, while respecting their voluntary character.
- (24) The rules governing the dissemination of research results should ensure that, where appropriate, the participants protect the intellectual property generated in actions, and use and disseminate those results.
- (25) While respecting the rights of the owners of intellectual property, those rules should be designed to ensure that participants and, where appropriate their affiliated entities established in a Member State or associated country, have access to information they bring to the project and to knowledge arising from research work carried out in the project to the extent necessary to conduct the research work or to use the resulting knowledge.
- (26) The 'Participants Guarantee fund', set-up under the Seventh Framework Programme of the Community and managed by the Commission, should continue to operate and should cover amounts due and not reimbursed by defaulting partners under the Framework Programme. The creation of such a fund has promoted the simplification and facilitated the participation while safeguarding the Union's financial interests in a manner that is also appropriate for the Framework Programme.
- (27) Community contributions to a joint undertaking set up pursuant to Articles 45 to 51 of the Treaty do not fall within the scope of this Regulation.
- (28) This Regulation respects the fundamental rights and observes the principles enshrined in the Charter of Fundamental Rights of the European Union.

- (29) The Community should provide financial support, in accordance with the Financial Regulation, *inter alia*, by means of public procurements, in the form of a price for goods or services established by contract and selected on the basis of calls for tender, grants, subscriptions to an organisation in the form of a membership fee, and honorarium for independent experts,

HAS ADOPTED THIS REGULATION:

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

Subject matter

This Regulation lays down the rules for the participation of undertakings, research centres and universities and other legal entities in actions undertaken by one or more participants under funding schemes identified in the Annex II to Decision 2012/93/Euratom (hereinafter 'indirect actions').

It also lays down rules, in accordance with those in the Regulation (EC, Euratom) No 1605/2002 (hereinafter the 'Financial Regulation') and Regulation (EC, Euratom) No 2342/2002, concerning the Community financial contribution to participants in indirect actions under the Framework Programme.

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

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

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

Article 2

Definitions

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

- (1) 'legal entity' means any natural person, or any legal person created under the national law of its place of establishment, or under Union law or international law,

⁽¹⁾ OJ L 292, 15.11.1996, p. 2.

⁽²⁾ OJ L 75, 22.3.2005, p. 67.

which has legal personality and which may, acting under its own name, exercise rights and be subject to obligations;

- (2) 'affiliated entity' means any legal entity that is under the direct or indirect control of a participant, or under the same direct or indirect control as the participant, control taking any of the forms set out in Article 7(2);
- (3) 'fair and reasonable conditions' means appropriate conditions including possible financial terms taking into account the specific circumstances of the request for access, for example the actual or potential value of the foreground or background to which access is requested and/or the scope, duration or other characteristics of the use envisaged;
- (4) 'foreground' means the results, including information, whether or not they can be protected, which are generated by the indirect action concerned, including rights related to copyright, design rights, patent rights, plant variety rights or similar forms of protection;
- (5) 'background' means information which is held by participants prior to their accession to the grant agreement, including copyright or other intellectual property rights pertaining to such information, for which they have filed applications before acceding to the grant agreement, and which is needed for carrying out the indirect action or for using the results of the indirect action;
- (6) 'participant' means a legal entity contributing to an indirect action and having rights and obligations with regard to the Community;
- (7) 'research organisation' means a legal entity established as a non-profit organisation which carries out research or technological development as one of its main objectives;
- (8) 'third country' means a country that is not a Member State;
- (9) 'associated country' means a third country that is party to an international agreement with the Community, under the terms of which or on the basis of which it makes a financial contribution to all or part of the Framework Programme;
- (10) 'international organisation' means an intergovernmental organisation, which has legal personality under international public law, other than the Union, as well as any specialised agency set up by such an international organisation;
- (11) 'international European interest organisation' means an international organisation, the majority of whose members are Member States or associated countries, and whose principal objective is to promote scientific and technological cooperation in Europe;
- (12) 'public body' means any legal entity established as such by national law, and international organisations;

(13) 'SMEs' mean micro, small and medium-sized enterprises within the meaning of Recommendation 2003/361/EC;

(14) 'work programme' means a plan adopted by the Commission for the implementation of a specific programme as identified in Article 6 of Council Decision 2012/94/Euratom of 19 December 2011 concerning the specific programme, to be carried out by means of indirect actions, implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) ⁽¹⁾;

(15) 'funding schemes' mean the mechanisms for Community funding of indirect actions as established in the Annex II to Decision 2012/93/Euratom.

For the purposes of point (1) of the first paragraph, in the case of natural persons, references to establishment are deemed to refer to habitual residence.

Article 3

Confidentiality

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

CHAPTER II

PARTICIPATION

Article 4

Specific rules for fusion energy research

The rules set out in this Chapter apply without prejudice to specific rules for activities under the thematic area 'Fusion energy research' set out in Chapter IV.

SECTION 1

Minimum conditions

Article 5

General principles

1. Any undertaking, university or research centre or other legal entity, whether established in a Member State, an associated country, or a third country, may participate in an indirect action provided that the minimum conditions laid down in this Chapter are met, including any conditions specified pursuant to Article 11.

2. However, in the case of an indirect action as referred to in Article 6 or 8, under which the minimum conditions may be met without the participation of a legal entity established in a Member State, participation shall be subject to the further condition that the attainment of the objectives laid down in Articles 1 and 2 of the Treaty is thereby enhanced.

⁽¹⁾ See page 33 of this Official Journal.

3. The Joint Research Centre (JRC) may participate in indirect actions on the same footing and with the same rights and obligations as a legal entity established in a Member State.

Article 6

Minimum conditions

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

- (a) at least three legal entities shall participate, each of which is established in a Member State or associated country, and no two of which are established in the same Member State or associated country;
- (b) all three legal entities shall be independent of each other in accordance with Article 7.

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

Article 7

Independence

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

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

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

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

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

Article 8

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

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

The first paragraph shall not apply to actions with the aim of coordinating research activities.

Article 9

Sole participants

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

Article 10

International organisations and legal entities established in third countries

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

Article 11

Additional conditions

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

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

SECTION 2

Procedures

Subsection 1

Calls for proposals

Article 12

Calls for proposals

1. The Commission shall issue calls for proposals for indirect actions in accordance with the requirements laid down in the relevant specific programmes and work programmes.

In addition to the publicity specified in Regulation (EC, Euratom) No 2342/2002, the Commission shall publish calls for proposals on the website of the European Commission for the Framework Programme, through specific information channels, and at the national contact points set up by the Member States and the associated countries.

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

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

Article 13

Exceptions

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

- (a) coordination and support actions to be carried out by legal entities identified in the specific programmes or in the work programmes when the specific programme permits the work programmes to identify beneficiaries, in accordance with Regulation (EC, Euratom) No 2342/2002;
- (b) coordination and support actions consisting of the purchase of goods or services subject to the rules on public procurement set out in the Financial Regulation;
- (c) coordination and support actions relating to the appointment of independent experts;
- (d) other actions, where so provided for by the Financial Regulation or Regulation (EC, Euratom) No 2342/2002.

Subsection 2

Evaluation and selection of proposals and award of grants

Article 14

Evaluation, selection and award

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

The criteria shall be those of excellence, impact and implementation. Within these conditions, the work programme shall further specify the evaluation and selection criteria and may add additional requirements, weightings and thresholds, or set out further details on the application of the criteria.

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

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

Article 15

Submission, evaluation, selection and award procedures

1. Where a call for proposals specifies a two-step evaluation procedure, only those proposals that pass the first step, based

on an evaluation against a limited set of criteria, shall go forward for further evaluation.

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

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

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

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

4. The Rules to ensure consistent verification of the existence and legal status of participants, as well as their operational and financial capacities, in indirect actions supported through the form of a grant under the Seventh Framework Programme of the Union and under the Seventh Framework Programme of the Community, adopted by Commission Decision C(2007) 2466 of 13 June 2007, shall apply under the Framework Programme.

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

Article 16

Appointment of independent experts

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

For coordination and support actions, as referred to in Article 13, independent experts shall be appointed only if the Commission deems it appropriate.

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

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

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

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

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

4. The Commission shall sign an appointment letter between the Community and each independent expert based on the model appointment letter adopted by the Commission Decision C(2008) 4617 of 21 August 2008.

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

Subsection 3

Implementation and grant agreements

Article 17

General

1. The participants shall implement the indirect action and shall take all necessary and reasonable measures to that end. Participants in the same indirect action shall implement the work jointly and severally vis-à-vis the Community.

2. The Commission shall draw up, on the basis of the model grant agreement referred to in Article 18 and taking into account the characteristics of the funding scheme concerned, a grant agreement between the Community and the participants.

3. Participants shall make no commitments incompatible with the grant agreement.

4. Where a participant fails to comply with its obligations regarding the technical implementation of the indirect action, the other participants shall comply with the grant agreement without any complementary Community contribution unless the Commission expressly relieves them of that obligation.

5. If the implementation of an action becomes impossible or if the participants fail to implement it, the Commission shall ensure the termination of the action.

6. Participants shall ensure that the Commission is informed of any event that might affect the implementation of the indirect action or the interests of the Community.

7. Where provided for in the grant agreement, the participants in the indirect action may subcontract certain elements of the work to be carried out to third parties.

8. The Commission shall set out redress procedures for participants.

Article 18

General provisions of the grant agreement

1. The model grant agreement adopted by the Commission Decision C(2007) 1509 of 10 April 2007 shall apply under the Framework Programme.

The grant agreement shall establish the rights and obligations of the participants with regard to the Community, in accordance with Decision 2006/970/Euratom, this Regulation, the Financial Regulation and Regulation (EC, Euratom) No 2342/2002, and in accordance with the general principles of Union law.

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

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

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

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

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

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

7. If a significant modification of the model grant agreement referred to in paragraph 1 proves necessary, the Commission shall, in close cooperation with Member States, revise it as appropriate.

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

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

10. The grant agreement shall lay down time limits for participants to give the various notifications referred to in this Regulation.

Article 19

Provisions concerning access rights use and dissemination

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

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

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

Article 20

Provisions concerning termination

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

Article 21

Specific provisions

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

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

3. To safeguard the defence interests of the Member States within the meaning of Article 24 of the Treaty, the grant agreement shall lay down, where appropriate, specific provisions on confidentiality, classification of information, access rights, transfer of ownership of foreground and the use thereof.

Article 22

Signature and accession

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

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

Subsection 4

Consortia

Article 23

Consortium agreements

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

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

2. The Commission shall establish and publish guidelines on the main issues that may be addressed by participants in their consortium agreements.

Article 24

Coordinator

1. The legal entities wishing to participate in an indirect action shall appoint one of their number to act as coordinator to carry out the following tasks in accordance with this Regulation, the Financial Regulation, Regulation (EC, Euratom) No 2342/2002, and the grant agreement:

- (a) monitoring compliance by participants in the indirect action with their obligations;
- (b) verifying whether the legal entities identified in the grant agreement complete the necessary formalities for accession to the grant agreement;
- (c) receiving the Community financial contribution and distributing it in accordance with the consortium and grant agreement;
- (d) keeping the records and financial accounts relevant for the Community financial contribution and informing the Commission of its distribution in accordance with Article 23(1)(b) and Article 35;
- (e) acting as an intermediary for efficient and correct communication between the participants and reporting regularly to the participants and to the Commission on the progress of the project.

2. The coordinator shall be identified in the grant agreement.

The appointment of a new coordinator shall require the written approval of the Commission.

*Article 25***Changes in the consortium**

1. The participants in an indirect action may agree to add a new participant or to remove an existing participant in accordance with the provisions established to this effect in the consortium agreement.

2. Any legal entity that joins an ongoing action shall accede to the grant agreement.

3. In specific cases, where provided for in the grant agreement, the consortium shall publish a competitive call and advertise it widely using specific information support, particularly Internet sites for the Framework Programme, the specialist press and brochures, and the national contact points set up by the Member States and associated countries for information and support.

The consortium shall evaluate offers in the light of the criteria governing the initial action and with the assistance of independent experts appointed by the consortium, in accordance with the principles laid down in Articles 14 and 16.

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

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

*Subsection 5***Monitoring and evaluation of programmes and indirect actions and communication of information***Article 26***Monitoring and evaluation**

1. The Commission shall monitor the implementation of indirect actions on the basis of the periodic progress reports submitted in accordance with the model grant agreement referred to in Article 18.

In particular, the Commission shall monitor the implementation of the plan for the use and dissemination of foreground, submitted in accordance with the second subparagraph of Article 19(1).

For those purposes, the Commission may be assisted by independent experts appointed in accordance with Article 16.

2. The Commission shall set up and maintain an information system to enable the monitoring referred to in paragraph 1 to be carried out in an efficient and coherent manner across the Framework Programme.

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

3. The monitoring and evaluation referred to in Article 6 of Decision 2012/93/Euratom shall include aspects relating to the application of this Regulation and shall address the budgetary impact of the changes in the cost calculation regime as compared to the Seventh Framework Programme of the Community and its effects on the administrative burden for participants.

4. The Commission shall appoint, in accordance with Article 16, independent experts to assist with evaluations required under the Framework Programme and its specific programme, and, as deemed necessary, for the evaluation of previous framework programmes.

5. In addition, the Commission may set up groups of independent experts appointed in accordance with Article 16, to advise on the design and implementation of Community research policy.

*Article 27***Information to be made available**

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

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

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

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

*SECTION 3***Community financial contribution***Subsection 1***Eligibility for funding and forms of grants***Article 28***Eligibility for funding**

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

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

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

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

Article 29

Forms of grants

The Community financial contribution for grants identified in the Annex II to the Decision 2012/93/Euratom shall be based on the reimbursement, in whole or in part, of eligible costs.

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

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

Article 30

Reimbursement of eligible costs

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

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

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

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

- (a) they must be actual;
- (b) they must have been incurred during the duration of the action, with the exception of final reports when provided for in the grant agreement;
- (c) they must have been determined in accordance with the usual accounting and management principles and practices of the participant and used for the sole purpose of achieving

the objectives of the indirect action and its expected results, in a manner consistent with the principles of economy, efficiency and effectiveness;

- (d) they must be recorded in the accounts of the participant and, in the case of any contribution from third parties, they must be recorded in the accounts of the third parties;
- (e) they must be exclusive of non-eligible costs, in particular identifiable indirect taxes including value added tax, duties, interest owed, provisions for possible future losses or charges, exchange losses, cost related to return on capital, costs declared or incurred, or reimbursed in respect of another Union project, debt and debt service charges, excessive or reckless expenditure, and any other cost that does not meet the conditions referred to in points (a) to (d).

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

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

Article 31

Direct eligible costs and indirect eligible costs

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

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

In compliance with Article 30(3)(c), a participant may use a simplified method for calculating its indirect eligible cost at the level of its legal entity if this method is in accordance with its usual accounting and management principles and practices. Principles to be followed in this respect shall be set out in the model grant agreement.

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

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

The Commission shall establish appropriate flat rates based on a close approximation of the real indirect costs concerned, in accordance with the Financial Regulation and Regulation (EC, Euratom) No 2342/2002.

5. Non-profit public bodies, secondary and higher education establishments, research organisations and SMEs that are unable to identify with certainty their real indirect costs for the action concerned, when participating in funding schemes which include research and technological development and demonstration activities, as referred to in Article 32, may opt for a flat rate equal to 60 % of the total direct eligible costs.

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

Article 32

Upper funding limits

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

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

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

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

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

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

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

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

Article 33

Reporting and audit of eligible costs

1. Periodic reports shall be submitted to the Commission regarding eligible costs, financial interest yielded by pre-financing, and receipts in relation to the indirect action concerned and, where appropriate, a certificate for the financial statements, in accordance with the Financial Regulation and Regulation (EC, Euratom) No 2342/2002.

Any co-financing of the action concerned shall be reported and, where appropriate, certified at the end of the action.

2. Notwithstanding the Financial Regulation and Regulation (EC, Euratom) No 2342/2002, a certificate for the financial statements shall be compulsory only whenever the cumulative amount of interim payments and balance payments made to a participant is equal to EUR 375 000 or more for an indirect action.

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

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

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

Article 34

Networks of excellence

1. The work programme shall provide for the forms of grants to be used for networks of excellence.

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

That amount shall be adjusted by the Commission in accordance with the Financial Regulation and Regulation (EC, Euratom) No 2342/2002.

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

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

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

Subsection 2

Payment, distribution, recovery and guarantees

Article 35

Payment and distribution

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

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

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

Article 36

Recovery

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

Article 37

Risk avoidance mechanism

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

2. In order to manage the risk associated with the non-recovery of sums due to the Community, the Commission has established and operates the Participant Guarantee Fund (hereinafter 'the Fund') in accordance with the Annex.

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

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

4. If the interests generated by the Fund are insufficient to cover sums due to the Community, the Commission may deduct from the amount to be returned to a participant a maximum of one per cent of the Community financial contribution to it.

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

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

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

CHAPTER III

DISSEMINATION AND USE, AND ACCESS RIGHTS

SECTION 1

Foreground

Article 38

Specific rules for fusion energy research

The rules set out in this Chapter shall apply without prejudice to the specific rules for activities under the thematic area 'Fusion energy research' set out in Chapter IV.

Subsection 1

Ownership

Article 39

Ownership of foreground

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

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

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

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

*Article 40***Joint ownership of foreground**

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

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

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

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

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

*Article 41***Transfer of foreground**

1. The owner of the foreground may transfer it to any legal entity, subject to paragraphs 2 to 5 of this Article and Article 42.

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

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

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

4. Following notification in accordance with the first subparagraph of paragraph 3, any other participant may

object to any transfer of ownership on the ground that it would adversely affect its access rights.

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

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

*Article 42***Preservation of European competitiveness, defence interest of Member States and ethical principles**

The Commission may object to the transfer of ownership of foreground, or to the granting of a licence regarding foreground, to third parties established in a third country not associated with the Framework Programme, if it considers that this is not in accordance with the interests of developing the competitiveness of the European economy or with the defence interests of the Member States within the meaning of Article 24 of the Treaty or is inconsistent with ethical principles.

In such cases, the transfer of ownership or granting of a licence shall not take place unless the Commission is satisfied that appropriate safeguards are put in place.

*Subsection 2***Protection, publication, dissemination and use***Article 43***Protection of foreground**

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

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

Where the foreground is capable of industrial or commercial application and its owner does not protect it, and does not transfer it to another participant, to an affiliated entity established in a Member State or associated country or to any other third party established in a Member State or associated country along with the associated obligations in accordance with Article 41, no dissemination activities may take place before the Commission has been informed.

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

Article 44

Statement relating to Community financial support

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

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

Article 45

Use and dissemination

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

2. Each participant shall ensure that the foreground of which it has ownership is disseminated as swiftly as possible. If it fails to do so the Commission may disseminate that foreground in accordance with Article 12 of the Treaty.

The grant agreement may set out time limits in this respect.

3. Dissemination activities shall be compatible with the protection of intellectual property rights, confidentiality obligations, and the legitimate interests of the owner of the foreground and the defence interests of the Member States within the meaning of Article 24 of the Treaty.

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

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

SECTION 2

Access rights to background and foreground

Article 46

Background covered

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

Article 47

Principles

1. All requests for access rights shall be made in writing.

2. Unless otherwise agreed by the owner of the foreground or background, access rights shall confer no entitlement to grant sub-licences.

3. Exclusive licences for foreground or background may be granted, subject to written confirmation by all the other participants that they waive their access rights thereto.

4. Without prejudice to paragraph 3, any agreement providing access rights to foreground or background to participants or third parties shall be such as to ensure that potential access rights for other participants are maintained.

5. Without prejudice to Articles 48 and 49 and the grant agreement, participants in the same action shall inform each other as soon as possible of any limitation on the granting of access rights to background, or of any other restriction that might substantially affect the granting of access rights.

6. The termination of its participation in an indirect action shall in no way affect the obligation of that participant to grant access rights to the remaining participants in the same action under the terms and conditions established by the grant agreement.

Article 48

Access rights for the implementation of indirect actions

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

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

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

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

*Article 49***Access rights for use**

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

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

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

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

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

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

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

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

CHAPTER IV

SPECIFIC RULES FOR PARTICIPATION IN ACTIVITIES UNDER THE THEMATIC AREA 'FUSION ENERGY RESEARCH'*Article 50***Scope**

The rules set out in this Chapter apply to activities under the thematic area 'Fusion energy research' as set out in the specific programme. In the event of any conflict between the rules set out in this Chapter and those set out in Chapters II and III, the rules set out in this Chapter shall apply.

*Article 51***Implementation of fusion energy research**

Activities under the thematic area 'Fusion energy research' may be implemented on the basis of procedures and rules for dissemination and use as set out in the following frameworks:

- (a) the Contracts of Association, concluded between the Community and Member States or associated third countries or legal entities within Member States or associated third countries;

- (b) the European Fusion Development Agreement (EFDA), concluded between the Community and organisations in, or acting for, Member States and associated countries;

- (c) the European Joint Undertaking for International Thermo-nuclear Experimental Reactor (ITER), based on the provisions of Title II, Chapter 5 of the Treaty;

- (d) international agreements relating to cooperation with third countries, or with any legal entity which may be established by such an agreement, in particular the ITER and the Broader Approach agreements;

- (e) any other multilateral agreement concluded between the Community and associated organisations, in particular the Agreement on Staff Mobility;

- (f) cost sharing actions to promote and contribute to fusion energy research with bodies in Member States or countries associated with the Framework Programme with which there is no Contract of Association.

*Article 52***Community financial contribution**

1. The Contracts of Association referred to in point (a) of Article 51 and cost sharing actions referred to in point (f) of Article 51 shall establish the rules relating to the Community financial contribution to the activities concerned.

The annual rate for the Community financial contribution, established in the Contracts of Association, shall not exceed 20 % of the expenditure of the Associations on activities specified in their Annual Work Programmes over the total duration of the Seventh Framework Programme of the Community and this Framework Programme.

2. After consultation of the consultative committee for the fusion programme referred to in Article 7 of Decision 2012/94/Euratom, the Commission may finance:

- (a) under the Contracts of Association at a rate not exceeding 40 %: expenditure of specific cooperative projects between the Associates which have been recommended for priority support by the consultative committee and approved by the Commission; priority support shall concentrate on actions of relevance to the ITER/DEMO, except in the case of projects already awarded priority status in earlier framework programmes;

- (b) actions carried out under the European Fusion Development Agreement including procurements, or under the Joint Undertaking referred to in point (c) of Article 51;

- (c) actions carried out under the Agreement on Staff Mobility.

3. In the case of projects and actions receiving a financial contribution according to points (a) or (b) of paragraph 2, all the legal entities referred to in points (a) and (b) of Article 51 shall have the right to take part in the experiments carried out on the equipment concerned.

4. The Community financial contribution to actions carried out under an international cooperation agreement as referred to in point (d) of Article 51 shall be determined in accordance with the terms of this agreement or by any legal entity established by the agreement. The Community may manage its

participation and its financial contribution to such an agreement through any appropriate legal entity.

CHAPTER V

FINAL PROVISIONS

Article 53

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

It shall apply from 1 January 2012.

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

Done at Brussels, 19 December 2011.

For the Council
The President
M. KOROLEC

ANNEX

PARTICIPANT GUARANTEE FUND

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

The Commission entrusts the financial management of the Fund either to the European Investment Bank or, in accordance with Article 13(b), to an appropriate financial institution (hereinafter the 'depository bank'). The depository bank shall manage the Fund pursuant to a brief by the Commission.

2. The Commission may offset, from the initial pre-financing it will pay to the consortium, the participants' contribution to the Fund, and pay it on their behalf to the Fund.
3. Where amounts are due to the Community by a participant, the Commission may, without prejudice to penalties which may be imposed on the defaulting participant in accordance with the Financial Regulation either:

(a) order the depository bank to directly transfer the amount due from the Fund to the coordinator of the indirect action if it is still ongoing and the remaining participants agree to implement it to the identical regarding its objectives, in accordance with Article 17(4). Amounts transferred from the Fund will be regarded as Community financial contribution; or

(b) recover effectively the said amount from the Fund should the indirect action be terminated or already completed.

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

4. The amounts recovered from the Fund during the Framework Programme (2012-2013) will constitute revenue assigned to it within the meaning of Article 18(2) of the Financial Regulation.

Once the implementation of all grants under the Framework Programme (2012-2013) is complete, any sums outstanding from the Fund will be recovered by the Commission and entered into the budget of the Union, subject to decisions on the next Framework Programme.

COMMISSION IMPLEMENTING REGULATION (EU) No 140/2012**of 17 February 2012****concerning the authorisation of monensin sodium as a feed additive for chickens reared for laying
(holder of authorisation Huvepharma NV Belgium)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003, an application was submitted for the authorisation of monensin sodium. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) The application concerns the authorisation of monensin sodium as a feed additive for chickens reared for laying, to be classified in the additive category 'coccidiostats and histomonostats'.
- (4) The use of monensin sodium was authorised for 10 years as a feed additive for use in chickens for fattening and turkeys up to 16 weeks by Commission Regulation (EC) No 109/2007⁽²⁾.

(5) The European Food Safety Authority ('the Authority') concluded in its opinion of 15 November 2011⁽³⁾ that, under the proposed conditions of use, monensin sodium does not have an adverse effect on human health, animal health or the environment, and that its use is efficacious in controlling eimeria infections. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.

(6) The assessment of monensin sodium shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of this preparation should be authorised as specified in the Annex to this Regulation.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

The preparation specified in the Annex, belonging to the additive category 'coccidiostats and histomonostats', is authorised as an additive in animal nutrition, subject to the conditions laid down in that Annex.

Article 2

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

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

Done at Brussels, 17 February 2012.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ OJ L 31, 6.2.2007, p. 6.

⁽³⁾ EFSA Journal 2011; 9(12):2442.

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive (Trade name)	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation	Provisional maximum residue limits (MRLs) in the relevant foodstuffs of animal origin
						mg of active substance/kg of complete feedingstuff with a moisture content of 12 %				
Coccidiostats and histomonostats										
51701	Huvepharma NV Belgium	Monensin sodium (Coxidin)	<p><i>Additive composition</i></p> <p>Monensin sodium technical substance equivalent to monensin activity: 25 %</p> <p>Perlite: 15 %-20 %</p> <p>Calcium carbonate q.s.100 %</p> <p><i>Active substance</i></p> <p>C₃₆H₆₁O₁₁Na</p> <p>Sodium salt of polyether monocarboxylic acid produced by <i>Streptomyces cinnamonensis</i> 28682, LMG S-19095 in powder form.</p> <p><i>Factor composition</i></p> <p>Monensin A: not less than 90 %</p> <p>Monensin A + B: not less than 95 %</p> <p>Monensin C: 0,2-0,3 %</p> <p><i>Analytical method</i> ⁽¹⁾</p> <p>Method for determination of the active substance: high performance liquid chromatography (HPLC) with post-column derivatisation and UV-VIS (EN ISO standard method 14183:2008)</p>	Chickens reared for laying	16 weeks	100	125	<p>1. Use prohibited at least 1 day before slaughter.</p> <p>2. The additive shall be incorporated in compound feedingstuffs in the form of a premixture.</p> <p>3. Monensin sodium shall not be mixed with other coccidiostats.</p> <p>4. Indicate in the instructions for use:</p> <p>‘Dangerous for equines. This feed-ingstuff contains an ionophore: avoid simultaneous adminis-tration with tiamulin and monitor for possible adverse reactions when used concurrently with other medicinal substances’.</p> <p>5. Wear suitable protective clothing, gloves and eye/face protection. In case of insufficient ventilation in the premises, wear suitable respiratory equipment.</p> <p>6. A post-market monitoring programme on the resistance to <i>Eimeria</i> spp. shall be planned and executed by the holder of authorisation.</p>	9 March 2022	<p>25 µg monensin sodium/kg of wet skin + fat</p> <p>8 µg monensin sodium/kg of wet liver, wet kidney and wet muscle</p>

⁽¹⁾ Details of the analytical methods are available at the following address of the European Union Reference Laboratory for Feed Additives: http://irrm.jrc.ec.europa.eu/EURLs/EURL_feed_additives/Pages/index.aspx

COMMISSION IMPLEMENTING REGULATION (EU) No 141/2012**of 17 February 2012****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 multi-lateral 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, 17 February 2012.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
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	IL	107,7
	JO	78,3
	MA	61,7
	TN	94,1
	TR	98,5
	ZZ	88,1
0707 00 05	JO	124,9
	MA	94,0
	TR	168,6
	ZZ	129,2
0709 93 10	MA	89,1
	TR	151,1
	ZZ	120,1
0805 10 20	EG	47,3
	IL	61,7
	MA	46,6
	TN	49,8
	TR	68,8
	ZZ	54,8
0805 20 10	IL	131,8
	MA	86,7
	ZZ	109,3
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	IL	114,9
	MA	105,8
	TR	72,1
	ZZ	97,6
0805 50 10	EG	40,4
	TR	54,2
	ZZ	47,3
0808 10 80	CA	136,5
	CL	98,4
	CN	82,7
	MK	31,8
	US	162,6
	ZZ	102,4
0808 30 90	AR	96,6
	CL	141,4
	CN	63,9
	US	113,9
	ZA	123,7
	ZZ	107,9

⁽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'.

COMMISSION IMPLEMENTING REGULATION (EU) No 142/2012**of 17 February 2012****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Implementing Regulation (EU) No 971/2011 for the 2011/12 marketing year**

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 Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups for the 2011/12 marketing year are fixed by Commission Implementing Regulation (EU) No 971/2011 ⁽³⁾. Those prices and duties were last amended by Commission Implementing Regulation (EU) No 138/2012 ⁽⁴⁾.

- (2) The data currently available to the Commission indicate that those amounts should be amended in accordance with Article 36 of Regulation (EC) No 951/2006.

- (3) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Implementing Regulation (EU) No 971/2011 for the 2011/12 marketing year, are hereby amended as set out in the Annex hereto.

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, 17 February 2012.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 254, 30.9.2011, p. 12.

⁽⁴⁾ OJ L 46, 17.2.2012, p. 38.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 18 February 2012

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 12 10 ⁽¹⁾	42,50	0,00
1701 12 90 ⁽¹⁾	42,50	1,86
1701 13 10 ⁽¹⁾	42,50	0,00
1701 13 90 ⁽¹⁾	42,50	2,15
1701 14 10 ⁽¹⁾	42,50	0,00
1701 14 90 ⁽¹⁾	42,50	2,15
1701 91 00 ⁽²⁾	48,40	2,95
1701 99 10 ⁽²⁾	48,40	0,00
1701 99 90 ⁽²⁾	48,40	0,00
1702 90 95 ⁽³⁾	0,48	0,23

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.⁽³⁾ Per 1 % sucrose content.

COMMISSION IMPLEMENTING REGULATION (EU) No 143/2012**of 17 February 2012****on the issue of import licences for applications submitted in the first seven days of February 2012
under the tariff quota for high-quality beef administered by Regulation (EC) No 620/2009**

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 Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 620/2009 of 13 July 2009 providing for the administration of an import tariff quota for high-quality beef ⁽³⁾ sets out detailed rules for the submission and issue of import licences.
- (2) Article 7(2) of Regulation (EC) No 1301/2006 provides that in cases where quantities covered by licence appli-

cations exceed the quantities available for the quota period, allocation coefficients should be fixed for the quantities covered by each licence application. The applications for import licences submitted pursuant to Article 3 of Regulation (EC) No 620/2009 between 1 and 7 February 2012 exceed the quantities available. Therefore, the extent to which import licences may be issued and the allocation coefficient should be determined,

HAS ADOPTED THIS REGULATION:

Article 1

Import licence applications covered by the quota with order number 09.4449 and submitted between 1 and 7 February 2012 in accordance with Article 3 of Regulation (EC) No 620/2009, shall be multiplied by an allocation coefficient of 0,392215 %.

Article 2

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

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

Done at Brussels, 17 February 2012.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 238, 1.9.2006, p. 13.

⁽³⁾ OJ L 182, 15.7.2009, p. 25.

DECISIONS

COUNCIL DECISION

of 19 December 2011

concerning the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012 to 2013)

(2012/93/Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission submitted after consultation of the Scientific and Technical Committee,

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

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

Whereas:

- (1) Joint national and European efforts in the area of research and training are essential to promote and ensure economic growth and the well-being of citizens in Europe.
- (2) The Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012–2013) (hereinafter ‘the Framework Programme’) should complement other European Union actions in the area of research policy that are necessary for implementing the Europe 2020 strategy adopted by the European Council on 17 June 2010, in particular those on education, training, competitiveness and innovation, industry, employment, and the environment.
- (3) The Framework Programme should build on the achievements of the Seventh Framework Programme adopted by Council Decision 2006/970/Euratom of 18 December 2006 concerning the Seventh Framework Programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities (2007 to 2011) ⁽³⁾, whilst including necessary reinforced emphasis on nuclear safety contributing to reorientation of nuclear research. It should also contribute to the creation of the European Research Area and towards the development of a knowledge economy and society in Europe.

(4) The Framework Programme should contribute to the implementation of the Innovation Union, one of the Europe 2020 flagship initiatives adopted by the Council conclusions at its meeting on 25 and 26 November 2010, by enhancing competition for scientific excellence and accelerating the deployment of key innovations in the nuclear energy field, notably in fusion and nuclear safety, and contribute to tackling energy and climate change challenges.

(5) In the context of the Energy Policy for Europe, the European Council at its meeting on 8 and 9 March 2007 confirmed that it is for each and every Member State to decide whether or not to rely on nuclear energy and stressed that this has to be done while further improving nuclear safety and the management of radioactive waste. It is also acknowledged that nuclear energy has, for the time being, the role of a ‘bridging technology’ in certain Member States.

(6) Notwithstanding the potential impact of nuclear energy on energy supply and economic development, severe nuclear accidents may have a potential to endanger human health. Therefore, under the Framework Programme, nuclear safety and, where appropriate, security aspects should be given greatest possible attention. The security aspects of the Framework Programme should be limited to the direct actions of the Joint Research Centre (JRC).

(7) The European Strategic Energy Technology Plan (SET Plan), set out in the Council conclusions of 28 February 2008, is accelerating the development of a portfolio of low carbon technologies. The European Council agreed, at the meeting on 4 February 2011, that the Union and its Member States would promote investment in renewables, safe and sustainable low carbon technologies and focus on implementing the technology priorities established in the SET Plan.

(8) The Community has created a single and fully integrated fusion research programme that has taken a leading international role in the development of fusion as a source of energy.

(9) Following the Council Decision of 20 December 2005, the Community acceded to the Framework Agreement for International Collaboration on Research and Development of Generation-IV International Forum (GIF) on

⁽¹⁾ Opinion of 17 November 2011 (not yet published in the Official Journal). Opinion delivered following non-compulsory consultation.

⁽²⁾ OJ C 318, 29.10.2011, p. 127. Opinion delivered following non-compulsory consultation.

⁽³⁾ OJ L 400, 30.12.2006, p. 60.

11 May 2006. The GIF coordinates multilateral cooperation in pre-conceptual design research on a number of advanced nuclear systems also aiming at satisfactorily addressing nuclear safety, waste, proliferation and public perception concerns, relevant for the Framework Programme.

- (10) The Council Conclusions on the need for skills in the nuclear field, adopted at its meeting held on 1 and 2 December 2008, recognise that it is essential to maintain within the Community a high level of training in the nuclear field.
- (11) In 2010, the Commission received the final reports on an external assessment of implementation and results of the Community activities in nuclear research over the period 2007-2009, covering both direct and indirect actions.
- (12) The realisation of the International Thermonuclear Experimental Reactor (ITER) in Europe, in accordance with the Agreement of 21 November 2006 on the establishment of the ITER International Fusion Energy Organisation for the joint implementation of the ITER project⁽¹⁾, should be the central feature of fusion research activities under the Framework Programme.
- (13) The Community activities to help realise ITER, in particular to construct ITER at Cadarache and carry out the ITER technology research and development during the Framework Programme are to be steered by the European Joint Undertaking for ITER and the Development of Fusion Energy (Fusion for Energy), in accordance with Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it⁽²⁾.
- (14) Research activities supported by the Framework Programme should respect fundamental ethical principles, including those reflected in the Charter of Fundamental Rights of the European Union.
- (15) This Decision should establish, for the entire duration of the Framework Programme, a financial envelope that constitutes the prime reference, within the meaning of point 37 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 17 May 2006 on budgetary discipline and sound financial management⁽³⁾, for the budgetary authority during the annual budgetary procedure.
- (16) The JRC should contribute to providing customer-driven scientific and technological support for the formulation, development, implementation and monitoring of the Union's policies with an enhanced focus on safety and security research. In this regard, the JRC should continue to function as an independent reference centre of science and technology in the Union in the areas of its specific

competence. The JRC should notably have the necessary capacity to provide independent scientific and technical expertise in the field of nuclear incidents and accidents.

- (17) The international and global dimension of European research activities is important with a view to obtain mutual benefits. The Framework Programme should be open to the participation of countries that have concluded the necessary agreements to this effect, and should also be open, at project level and on the basis of mutual benefit, to the participation of entities from third countries and of international organisations for scientific cooperation.
- (18) The Framework Programme should contribute to the enlargement of the Union by providing scientific and technological support to the candidate countries for their implementation of the Union *acquis* and for their integration within the European Research Area.
- (19) The Communication from the Commission of 26 March 2009 on nuclear non-proliferation, recognises the role of the JRC in the field of nuclear security research and training.
- (20) Appropriate measures should also be taken to prevent irregularities and fraud and to recover funds lost, wrongly paid or incorrectly used, in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests⁽⁴⁾, 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⁽⁵⁾ and Council Regulation (Euratom) No 1074/1999 of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)⁽⁶⁾.

HAS ADOPTED THIS DECISION:

Article 1

Adoption of the Framework Programme

A multiannual framework programme for nuclear research and training activities (hereinafter the 'Framework Programme'), is adopted for the period from 1 January 2012 to 31 December 2013.

Article 2

Objectives

1. The Framework Programme shall pursue the general objectives set out in Article 1 and Article 2(a) of the Treaty with special consideration of nuclear safety, security and

⁽¹⁾ OJ L 358, 16.12.2006, p. 62.

⁽²⁾ OJ L 90, 30.3.2007, p. 58.

⁽³⁾ OJ C 139, 14.6.2006, p. 1.

⁽⁴⁾ OJ L 312, 23.12.1995, p. 1.

⁽⁵⁾ OJ L 292, 15.11.1996, p. 2.

⁽⁶⁾ OJ L 136, 31.5.1999, p. 8.

radiation protection, while contributing towards the creation of the Innovation Union and building on the European Research Area.

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

3. The first specific programme shall cover the following indirect actions:

- (a) fusion energy research, with the objective of developing the technology for a safe, sustainable, environmentally responsible and economically viable energy source;
- (b) nuclear fission, safety and radiation protection, with the objective of enhancing the safety of nuclear fission and other uses of radiation in industry, in medicine and in improving the management of radioactive waste.

4. The second specific programme shall cover the direct research activities of the Joint Research Centre (JRC) in the field of nuclear waste management, environmental impact, safety and security.

5. The objectives and broad lines of the two specific programmes are set out in Annex I.

Article 3

Maximum amount and shares assigned to each specific programme

The maximum amount for the implementation of the Framework Programme shall be EUR 2 560 270 000. This amount shall be distributed as follows:

- (a) for the specific programme, referred to in Article 2(3), to be carried out by means of indirect actions:

— fusion energy research EUR 2 208 809 000 ⁽¹⁾,

— nuclear fission, safety, and radiation protection EUR 118 245 000;

- (b) for the specific programme, referred to in Article 2(4), to be carried out by means of direct actions:

— nuclear activities of the JRC EUR 233 216 000.

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

Article 4

Protection of the Union's financial interests

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

Article 5

Fundamental ethical principles

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

Article 6

Monitoring, assessment and review

1. The Commission shall continually and systematically monitor the implementation of the Framework Programme and its specific programmes and regularly report and disseminate the results of this monitoring. In early 2013, a specific monitoring report shall be presented to the Council, dedicated to the implementation of nuclear safety and security activities of the Framework Programme.

2. Following the completion of the Framework Programme, the Commission shall, by 31 December 2015, have an external evaluation carried out by independent experts of its rationale, implementation and achievements. The Commission shall communicate the conclusions thereof, accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

Article 7

Entry into force

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

Done at Brussels, 19 December 2011.

For the Council

The President

M. KOROLEC

⁽¹⁾ Within this total amount, sufficient funding will be reserved for activities other than the construction of ITER listed in Annex I.

ANNEX I

SCIENTIFIC AND TECHNOLOGICAL OBJECTIVES, THEMES AND ACTIVITIES**INTRODUCTION**

The Framework Programme is organised in two parts corresponding to the 'indirect' actions on fusion energy research and nuclear fission and radiation protection, and the 'direct' research activities of the JRC.

I.A. FUSION ENERGY RESEARCH**Objective**

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

Rationale

Fusion has the potential to make a major contribution to the realisation of a sustainable and secure energy supply for the Union a few decades from now. Its successful development would provide energy which is safe, sustainable and environmentally friendly. The long-term goal of European fusion research, embracing all the fusion activities in the Member States and associated third countries, is the joint creation of prototype reactors for power stations which meet these requirements, and are economically viable.

The first priority of the strategy to achieve the long-term goal is the construction of ITER (a major experimental facility which will demonstrate the scientific and technical feasibility of fusion power), followed by the construction of a demonstration fusion power plant (DEMO). ITER construction will be accompanied by a focused programme of supporting R & D for ITER and limited activities on the technologies and physics required for DEMO.

The global dimension of fusion R & D is embodied in the Agreement of 21 November 2006 on the establishment of the ITER International Fusion Energy Organisation for the joint implementation of the ITER project and the Agreement between the Government of Japan and the Community for the Joint Implementation of the Broader Approach Activities in the Field of Fusion Energy Research ⁽¹⁾.

International cooperation is also pursued within eight bilateral fusion Cooperation Agreements in force between the Community and third countries.

Activities**1. The realisation of ITER**

This includes activities for the joint realisation of ITER, in particular governance of the ITER International Organisation and the European Joint Undertaking for ITER, management and staffing, general technical and administrative support, construction of equipment and installations and support for the project during construction.

2. R & D in preparation of ITER operation

A focused physics and technology programme will exploit the Joint European Torus (JET) and other ITER-relevant magnetic confinement devices. It will assess specific key ITER technologies, consolidate ITER project choices, and prepare for ITER operation.

3. Limited technology activities in preparation of DEMO

Fusion materials and key technologies for fusion will be further developed, and the work of the team preparing for the construction of the International Fusion Materials Irradiation Facility (IFMIF) will continue.

4. R & D activities for the longer term

There will be limited activities on improved concepts for magnetic confinement schemes (focused on the preparation for operation of the W7-X stellarator device), and theory and modelling aimed at a comprehensive understanding of fusion plasmas.

5. Human resources, education and training

In view of the immediate and medium term needs of ITER, and for the further development of fusion, initiatives aimed at training the 'ITER Generation', in terms of numbers, range of skills and high-level training and experience will be pursued.

⁽¹⁾ OJ L 246, 21.9.2007, p. 34.

6. Infrastructures

ITER will be a new research infrastructure with a strong European dimension.

7. Industry and technology transfer processes

New organisational structures are needed for swift transfer of innovations deriving from ITER to European industry. This will be a task of the Fusion Industry Innovation Forum which will develop a fusion technology roadmap and human resource development initiatives, with an emphasis on innovation and potential for providing new products and services.

I.B. NUCLEAR FISSION, SAFETY, AND RADIATION PROTECTION

Objective

Establishing a sound scientific and technical basis in order to accelerate practical developments for the safer management of long-lived radioactive waste, enhancing in particular the safety ⁽¹⁾, while contributing to resource efficiency and cost-effectiveness of nuclear energy and ensuring a robust and socially acceptable system of protection of man and the environment against the effects of ionising radiation.

Rationale

Nuclear power constitutes an element in the debate on combating climate change and reducing Europe's dependence on imported energy. In the broader context of finding a sustainable energy-mix for the future, the Framework Programme will also contribute through its research activities to the debate on the benefits and the limitations of nuclear fission energy for a low-carbon economy. Through ensuring even higher safety levels, more advanced nuclear technologies could also offer the prospect of significant improvements in efficiency and use of resources and producing less waste than current designs. Nuclear safety aspects will receive the greatest possible attention.

Efforts are still required to ensure a continuation of the Community's outstanding safety record and the improvement of radiation protection continues to be a priority area. The key issues are operational reactor safety and management of long-lived waste, both of which are being addressed through continued work at the technical level, though allied political and societal inputs are also required. In all uses of radiation, throughout industry and medicine alike, the overriding principle is the protection of man and the environment. All thematic domains to be addressed here are characterised by an overriding concern to ensure high levels of safety.

Three major European cooperative initiatives in nuclear science and technology have been launched since the start of the Seventh Euratom Framework Programme. They are the Sustainable Nuclear Energy Technology Platform (SNETP), the Implementing Geological Disposal Technology Platform (IGDTP) and the Multidisciplinary European Low-Dose Initiative (MELODI). The activities of both SNETP and IGDTP correspond very closely with strategic energy technology plan priorities, and a core group of SNETP organisations are responsible for implementing ESNII, the European Sustainable Nuclear Industrial Initiative. They encompass activities within the scope of the Framework Programme, notably in so far as nuclear safety is concerned.

There is increasing interaction between SNETP, IGDTP and MELODI and other stakeholder forums at the Union level, such as the European Nuclear Energy Forum (ENEF) and the European Nuclear Safety Regulators Group (ENSREG), and further synergies will be sought as appropriate through framework programme activities whilst recalling that the development of industrial products and services should be funded by the industry itself.

The Framework Programme is characterised by an overriding concern to promote high levels of safety, taking also into consideration the international context. It will also continue to support initiatives to ensure that facilities, training and training opportunities in Europe remain appropriate in view of current orientations of national programmes and in the best interests of the Union as a whole, in particular as regards nuclear safety and radiation protection. This, more than anything else, will ensure that an appropriate safety culture is maintained.

Activities

1. Management of ultimate radioactive waste

Implementation-oriented research activities on remaining key aspects of deep geological disposal of spent fuel and long-lived radioactive waste with, as appropriate, demonstration of the technologies and safety, and to underpin development of a common European view on the main issues related to waste management from discharge to disposal.

⁽¹⁾ Any nuclear security research activities are covered under heading II 'Nuclear activities of the Joint Research Centre (JRC)'.

2. Reactor systems

Research to underpin the safe operation of all relevant reactor systems (including fuel cycle facilities) in use in Europe or, to the extent necessary in order to maintain broad nuclear safety expertise in Europe, those reactor types which may be used in the future, focusing exclusively on safety aspects, including all aspects of the fuel cycle such as partitioning and transmutation. Accompanying measures to contribute to the debate on a sustainable energy mix in Europe.

3. Radiation protection

Research, in particular on the risks from low doses, medical uses and the management of accidents, to provide a scientific basis for a robust, equitable and socially acceptable system of protection, taking also into consideration the benefits of the uses of radiation in medicine and industry.

4. Infrastructures

Support for the use and continued availability of, and cooperation between, key research infrastructures in the priority thematic areas above.

5. Human resources and training

Support for the retention and further development of scientific competence and human capacity in order to guarantee the availability of suitably qualified researchers, engineers and employees in the nuclear sector over the longer term.

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

Objective

The JRC Nuclear Specific Programme aims at satisfying the R & D obligations of the Treaty, with special emphasis on nuclear safety and radiation protection, and supporting both Commission and Member States in the fields of safeguards and non-proliferation, waste management, safety of nuclear installations and fuel cycle, radioactivity in the environment and radiation protection. The JRC shall further strengthen its role of a European reference for the dissemination of information, training and education for professionals and young scientists, notably in the areas of nuclear safety and security, and radiation protection.

Rationale

There is a clear need for developing knowledge, skills and competence to provide the required scientific state of the art independent and reliable expertise in support to the Union's policies in the domains of nuclear reactor and fuel cycles safety, nuclear safeguards and security. The customer driven support to the Union's policy underlined in the JRC's mission will be complemented with a proactive role within the European Research Area in undertaking high quality research activities in close contact with industry and other bodies and developing networks with public and private institutions in the Member States.

Activities

1. Nuclear waste management and environmental impact will focus on reducing uncertainties and solving open issues in waste disposal, in order to develop effective solutions for the management of high level nuclear waste following the two major options (direct disposal or partitioning and transmutation). Activities will also be developed to enhance the understanding and modelling of the physics, chemistry and fundamental properties of actinide materials, and the database of high accuracy nuclear reference data, for nuclear energy and non-nuclear applications (e.g. medical). To extend the radiological protection effort, further development of environmental models of radioisotope dispersion coupled with monitoring tests in environmental radioactivity in support to the harmonisation of the national monitoring process and systems will be carried out.
 2. Nuclear safety will contribute to the implementation of research on safety of fuel cycles, focusing predominantly on reactor safety of present reactors in the Union. Research will also address reactor safety of new innovative designs, safety and safeguard aspects of innovative fuel cycles, extended burn-up or of new types of fuels. It will also pursue the development of safety requirements and advanced evaluation methods for reactor systems of relevance to nuclear safety in Europe. In addition the JRC will coordinate the European contribution to the Generation IV International Forum R & D initiative, by acting as integrator and disseminating research in this area. Furthermore, it will provide scientific expertise regarding nuclear incidents and accidents.
 3. Nuclear security, will further support the accomplishment of Community commitments, in particular development of methods for the control of the fuel cycle facilities, the implementation of the additional protocol including environmental sampling and integrated safeguards, and the prevention of the diversion of nuclear and radioactive materials associated with illicit trafficking of such materials including the nuclear forensics.
-

ANNEX II

FUNDING SCHEMES

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

1. FUNDING SCHEMES IN FUSION ENERGY

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

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

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

2. FUNDING SCHEMES IN OTHER FIELDS

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

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

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

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

The funding schemes are as follows:

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

1. Collaborative projects

Support for research projects carried out by consortia with participants from different countries, aiming to develop new knowledge, new technology, products or common resources for research. The size, scope and internal organisation of projects can vary from field to field and from topic to topic. Projects can range from small or medium-scale focused research actions to larger integrating projects that mobilise a significant volume of resources for achieving a defined objective. Support for the training and career development of researchers will be included in project work plans.

2. Networks of excellence

Support for joint research programmes implemented by a number of research organisations integrating their activities in a given field and carried out by research teams under longer-term cooperation. The implementation of these joint research programmes will require the formal commitment of such organisations. Support for training and career development of researchers will be included in project work plans.

3. Coordination and support actions

Support for activities to coordinate coordinating or supporting research (networking, exchanges, transnational access to research infrastructures, studies, conferences, contributions during construction of new infrastructure, etc.) or to promote the development of human resources (e.g. networking and setting up training schemes). These actions may also be implemented by means other than calls for proposals.

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

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

The Community will implement the funding schemes in compliance with the provisions of Council Regulation (Euratom) No 139/2012 of 19 December 2011 laying down the rules for the participation of undertakings, research centres and universities in indirect actions under the Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2012 to 2013) ⁽¹⁾, as regards the rules for the participation of undertakings, research centres and universities, the relevant State aid instruments, in particular the framework for State aid to research and development, as well as international rules in this area. In compliance with this international framework, the scale and form of financial participation will need to be considered on a case-by-case basis, in particular if funding from other public sector sources is available, including other sources of Union financing such as the European Investment Bank.

For participants in an indirect action pursued in a region lagging in development (convergence regions as defined in Article 5 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund ⁽²⁾, including regions eligible for funding from the Structural Funds under the Convergence objective and regions eligible for funding from the Cohesion Fund, and outermost regions), complementary funding from the Structural Funds will be mobilised wherever possible and appropriate.

3. DIRECT ACTIONS — JOINT RESEARCH CENTRE

The Community will have activities implemented by the JRC, which are referred to as direct actions, in accordance with Council Decision 2012/95/Euratom of 19 December 2011 concerning the specific programme, to be carried out by means of direct actions by the Joint Research Centre, implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012 to 2013) ⁽³⁾.

⁽¹⁾ See page 1 of this Official Journal.

⁽²⁾ OJ L 210, 31.7.2006, p. 25.

⁽³⁾ See page 40 of this Official Journal.

COUNCIL DECISION

of 19 December 2011

concerning the specific programme, to be carried out by means of indirect actions, implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013)

(2012/94/Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission submitted after consultation of the Scientific and Technical Committee,

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

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

Whereas:

- (1) Joint national and European efforts in the area of research and training are essential to promote and ensure economic growth and the well-being of citizens in Europe.
- (2) In accordance with Council Decision 2012/93/Euratom of 19 December 2011 concerning the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) ⁽³⁾ (hereinafter 'the Framework Programme'), the Framework Programme is to be implemented through specific programmes that define detailed rules for their implementation, fix their duration and provide for the means deemed necessary.
- (3) The Framework Programme comprises two types of activities: indirect actions in fusion energy research and research on nuclear fission, safety and radiation protection, and direct actions for activities of the Joint Research Centre (JRC) in the field of nuclear waste management, environmental impact, safety and security, especially related to nuclear events and taking into account lessons learned from previous experiences. The indirect actions should be implemented by this specific programme.
- (4) The rules for the participation of undertakings, research centres and universities and for the dissemination of research results under the Framework Programme should apply to this specific programme.
- (5) In accordance with Article 101 of the Treaty, the Community has concluded a number of international agreements in the field of nuclear research, and efforts should be made to strengthen international research cooperation, with a view to further integrating the Community within the worldwide research community. Bilateral international cooperation is based on a solid legal framework of cooperation agreements between the Community and third countries. The Framework Programme is fundamental to the implementation of those agreements. Therefore, this specific programme should be open to the participation of countries that have concluded agreements to this effect and should be also open at project level, and on the basis of mutual benefit, to the participation of entities from third countries and of international organisations for scientific cooperation.
- (6) This specific programme should contribute towards promoting sustainable development and ensuring that an appropriate safety culture is maintained.
- (7) Sound financial management of this specific programme and its implementation should be ensured in an effective and user-friendly manner, while ensuring legal certainty and the accessibility of this programme to all participants, in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾ and Commission Regulation (EC, Euratom) 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁵⁾.
- (8) Appropriate measures — proportionate to the Union's financial interests — should be taken to monitor both the effectiveness of the financial support granted and the effectiveness of the utilisation of these funds in order to prevent irregularities and fraud. The necessary steps should also be taken to recover funds lost, wrongly paid or incorrectly used, in accordance with Regulation (EC, Euratom) No 1605/2002, Regulation (EC, Euratom) No 2342/2002, Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests ⁽⁶⁾, Council Regulation (Euratom, EC) No 2185/96 of

⁽¹⁾ Opinion of 15 November 2011 (not yet published in the Official Journal). Opinion delivered following non-compulsory consultation.

⁽²⁾ OJ C 318, 29.10.2011, p. 127. Opinion delivered following non-compulsory consultation.

⁽³⁾ See page 25 of this Official Journal.

⁽⁴⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁵⁾ OJ L 357, 31.12.2002, p. 1.

⁽⁶⁾ OJ L 312, 23.12.1995, p. 1.

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 ⁽¹⁾ and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽²⁾.

- (9) Each thematic area of this specific programme should have its own budget line in the general budget of the Union.
- (10) Research activities carried out within this specific programme should respect fundamental ethical principles, including those reflected in the Charter of Fundamental Rights of the European Union,

HAS ADOPTED THIS DECISION:

Article 1

The specific programme, to be carried out by means of indirect actions, implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) (hereinafter the 'specific programme') is adopted for the period from 1 January 2012 to 31 December 2013.

Article 2

The specific programme shall support activities for research and training on nuclear energy, covering the whole range of indirect research actions carried out in the following thematic areas:

- (a) fusion energy research (including the International Thermonuclear Experimental Reactor (ITER));
- (b) research on nuclear fission, safety and radiation protection.

The objectives and broad lines of the activities referred to in this Article are set out in the Annex.

Article 3

In accordance with Article 3 of Decision 2012/93/Euratom, the maximum amount for the execution of the specific programme is EUR 2 327 054 000, of which up to 15 % shall be for the Commission's administrative expenditure. This amount is allocated as follows:

- (a) fusion energy research EUR 2 208 809 000;
- (b) nuclear fission, safety and radiation protection EUR 118 245 000.

Article 4

All research activities carried out under the specific programme shall be carried out in compliance with fundamental ethical principles.

⁽¹⁾ OJ L 292, 15.11.1996, p. 2.

⁽²⁾ OJ L 136, 31.5.1999, p. 1.

Article 5

- 1. The specific programme shall be implemented by means of the funding schemes established in Annex II to Decision 2012/93/Euratom.
- 2. The rules for participation of undertakings, research centres and universities and for the dissemination of research results relating to indirect actions set out in Council Regulation (Euratom) No 139/2012 of 19 December 2011 laying down the rules for the participation of undertakings, research centres and universities in indirect actions under the Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2012-2013) ⁽³⁾ shall apply to this specific programme.

Article 6

- 1. The Commission shall draw up an annual work programme for the implementation of the specific programme, setting out in greater detail the objectives and scientific and technological priorities set out in the Annex, the funding schemes to be used for the topics on which proposals are invited, and the timetable for implementation.
- 2. The work programme shall take account of relevant research activities carried out by the Member States, associated states and European and international organisations. It shall be updated where appropriate.
- 3. The work programme shall specify the criteria on which proposals for indirect actions under the funding schemes are to be evaluated and projects selected. The criteria shall be those of excellence, impact and implementation. Additional requirements, weightings and thresholds may be further specified or complemented in the work programme.
- 4. The work programme may identify the following:

- (a) organisations that receive subscriptions in the form of a membership fee;
- (b) actions to support the activities of specific legal entities.

Article 7

- 1. The Commission shall be responsible for the implementation of the specific programme.
- 2. For the purposes of implementing the specific programme the Commission shall be assisted by a consultative committee. The members of this committee can vary according to the different subjects on the committee's agenda. For fission-related aspects, the composition of this committee and the detailed operational rules and procedures applicable to it shall be as laid down in Council Decision 84/338/Euratom, ECSC, EEC of 29 June 1984 dealing with structures and procedures for the management and coordination of Community research,

⁽³⁾ See page 1 of this Official Journal.

development and demonstration activities ⁽¹⁾. For the fusion-related aspects they shall be as laid down in Council Decision of 16 December 1980 setting up a Consultative Committee for the fusion programme ⁽²⁾.

3. The Commission shall regularly inform the committee of the overall progress of the implementation of the specific programme, and shall provide it with timely information on all actions proposed or funded under this specific programme.

Article 8

The Commission shall arrange for the independent monitoring, assessment and review provided for in Article 6 of Decision

2012/93/Euratom to be conducted concerning the activities carried out in the fields covered by the specific programme.

Article 9

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

Done at Brussels, 19 December 2011.

For the Council

The President

M. KOROLEC

⁽¹⁾ OJ L 177, 4.7.1984, p. 25.

⁽²⁾ Not published.

ANNEX

SCIENTIFIC AND TECHNOLOGICAL OBJECTIVES, BROAD LINES OF THE THEMES AND ACTIVITIES**I. THEMATIC AREAS OF RESEARCH****IA Fusion energy research****Overall objective**

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

Activities**1. Realisation of ITER**

The Community has a special responsibility within the ITER Organisation as the host of the project and has a leading role, particularly regarding the governance of the ITER International Organisation, management and staffing, plus general technical and administrative support.

Community participation in ITER as a Party will include further contributions to the construction of equipment and installations needed at the ITER site, and to support the project during construction.

The R & D activities in support of ITER construction will be carried out in the Fusion Associations and European industries. They will include the development and testing of components and systems.

2. R & D in preparation of ITER operation

A focused physics and technology programme will aim to consolidate ITER project choices and prepare for the rapid start-up of ITER operation. It will be carried out through coordinated experimental, theoretical and modelling activities using the JET facilities and other relevant experimental and computational devices. It will ensure that Europe has the necessary impact on the ITER project, and will prepare for a strong European role in its exploitation. It will include:

- assessment of specific key technologies for ITER operation through exploitation of the JET Enhancements (ITER-like first wall, heating systems, diagnostics),
- exploration of ITER operating scenarios by means of targeted experiments on JET and other facilities, and coordinated modelling activities.

3. Limited technology activities to prepare for DEMO

Key technologies and materials required for the licensing, construction and operation of the DEMO power plant will be further developed in the Fusion Associations and industry in order to test them in ITER and to position European industry to be able to construct DEMO and develop future fusion power plants. The following activities will be implemented:

- further work by the dedicated project team on the Engineering Validation and Engineering Design Activities to prepare for the construction of the International Fusion Materials Irradiation Facility, which will be used to test materials for a fusion power station,
- development, irradiation testing and modelling of low activation and radiation-resistant materials; development of the key technologies required for fusion power plant operation, including blankets; conceptual design activities for DEMO, including safety and environmental aspects.

4. R & D activities for the longer term

Building on the activities specifically concerning ITER and DEMO, the specific programme will develop competences and enlarge the knowledge base in fields strategically relevant to future fusion power stations. These research activities will enhance the technical feasibility and economic viability of fusion power. Specific actions under the Framework Programme will include limited activities as follows:

- study of improved concepts for magnetic confinement schemes, including stellarators. Work will concentrate on preparation for the operation of the W7-X stellarator, utilisation of existing devices for expansion of the experimental databases, and appraisal of the future prospects for these configurations,
- experiment, theory and further modelling with the ultimate aim of a comprehensive understanding of reactor-grade fusion plasmas,

- studies of the socio-scientific aspects and economics of fusion power generation, and actions to promote public awareness and understanding of fusion.

5. Human resources, education and training — building the 'ITER Generation'

Ensuring adequate human resources and a high level of cooperation within the fusion thematic area, both for the immediate and medium term needs of ITER, and for the further development of fusion, will be addressed by:

- support for the mobility of researchers between organisations participating in the specific programme, in order to promote enhanced collaboration and integration of the research activities, and to foster international cooperation,
- high-level training for engineers and researchers at post-graduate and post-doctoral level, including the use of facilities as training platforms, dedicated seminars and workshops, and fostering cooperation between higher education institutions.

6. Infrastructures

The realisation of ITER in Europe, within the international framework provided by the ITER Organisation, will add to the new research infrastructures with a strong European dimension.

7. Technology transfer, industry involvement and innovation

ITER will require a new and more flexible organisational structure to enable the resulting innovation and technological progress to be swiftly transferred to industry, thus enabling European industry to become more competitive. This will be addressed by:

- promotion of innovation and exchange of know-how with related universities, research institutes and industry, including appropriate interaction with ITER organisation and the European Joint Undertaking Fusion for Energy (F4E) (giving equal opportunity to industry partners to participate, according to the relevant Union procurement rules),
- encouragement for the generation of patents,
- promotion of the Fusion Industry Innovation Forum, which will develop a fusion technology roadmap and human resource development initiatives, with an emphasis on innovation and potential for providing new products and services.

I.B Nuclear fission, safety and radiation protection

Overall objective

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

Activities

Indirect actions in nuclear fission, safety and radiation protection will be undertaken in five principal areas of activity detailed below. In the light of the reinforced emphasis on nuclear safety contributing to reorientation of nuclear research, the areas of installation safety, radiation protection (including medical uses) and risk assessment shall receive the greatest possible attention. There are important links with research in the Seventh Framework Programme of the Union adopted by Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) ⁽¹⁾, in particular in the areas of energy, European standards, education and training, environmental protection, health, material science, governance, common infrastructures, security and safety culture. International cooperation will be encouraged across many of the research activities, with special focus on safety of nuclear installations, and this will be in collaboration with the relevant technical and stakeholder forums described in the rationale for nuclear fission, safety and radiation protection activities in point I.B of Annex I to Decision 2012/93/Euratom.

1. Management of ultimate radioactive waste

Engineering studies and demonstration of geological repository designs in order to prepare implementation while ensuring operational safety. Studies contributing to a better understanding of wastes and their behaviour over time, development of robust methodologies for performance and safety assessment, investigation of governance and societal issues related to public acceptance and other activities to underpin the development of a common European view on the main issues related to waste management from discharge to disposal.

⁽¹⁾ OJ L 412, 30.12.2006, p. 1.

2. Reactor systems

While respecting the overall objective, research to underpin the safe operation of all reactor systems (including fuel cycle facilities) in use in Europe or, to the extent necessary in order to maintain broad nuclear safety expertise in Europe, those reactor types which may be used in the future, focusing exclusively on safety aspects. This includes plant life assessment and management, safety culture (minimising the risk of human and organisational error), advanced safety assessment methodologies, numerical simulation tools, instrumentation and control, and prevention and mitigation of severe accidents, with associated activities to optimise knowledge management and maintain competences.

Activities include basic and key cross-cutting research activities (such as material science) ⁽¹⁾ and, while focusing exclusively on safety aspects, the study of future reactors and all aspects of the fuel cycle such as partitioning and transmutation.

3. Radiation protection

Activities in this area will focus on:

- Better quantification of the risks to health for low and protracted exposures, including individual variability, through epidemiological studies and an improved understanding of the mechanisms through cellular and molecular biology research.
- Enhance the safety and efficacy of medical uses of radiation through new technological developments and achieving a proper balance between the benefits and risks of such uses.
- Improve the coherence and integration of emergency and post-accident management in Europe through the development of common tools and strategies and demonstrate their efficacy in operational environments.
- In other areas, national research activities will be more effectively integrated as considered necessary.

4. Infrastructures

Where there is clear European added value especially in order to establish critical mass, support for the design, refurbishment, construction and/or operation of key research infrastructures required in any of the above thematic areas, including facilitating the appropriate access to existing and future infrastructures by individual research workers and research teams.

5. Human resources and training ⁽²⁾

Coordination of national programmes and provision for general training needs in nuclear science and technology through a range of instruments, including those with shorter-term results and of a competitive nature, as part of general support to human resources in all thematic domains. Includes support for training courses and training networks, and measures to make the sector more attractive to young scientists and engineers and to improve coordination between the Union educational institutions in order to ensure qualifications are equivalent across all Member States.

II. ETHICAL ASPECTS

During the implementation of this specific programme and in the research activities arising from it, fundamental ethical principles are to be respected. These include, inter alia, the principles reflected in the Charter of Fundamental Rights of the European Union, including the following: protection of human dignity and human life, protection of personal data and privacy, as well as animals and the environment in accordance with Community law and the latest versions of relevant international conventions, guidelines and codes of conduct, e.g. the Helsinki Declaration, the Convention of the Council of Europe on Human Rights and Bio-medicine signed in Oviedo on 4 April 1997 and its Additional Protocols, the UN Convention on the Rights of the Child, the Universal Declaration on the human genome and human rights adopted by Unesco, UN Biological and Toxin Weapons Convention, International Treaty on Plant Genetic Resources for Food and Agriculture, and the relevant World Health Organisation resolutions.

Account will also be taken to the opinions of the European Group of Advisers on the Ethical Implications of Biotechnology (1991 to 1997) and the opinions of the European Group on Ethics in Science and New technologies (as from 1998).

In compliance with the principle of subsidiarity and the diversity of approaches existing in Europe, participants in research projects must conform to current legislation, regulations and ethical rules in the countries where the research will be carried out. In any case, national provisions apply and no research forbidden in any given Member State or other country will be supported by Community funding to be carried out in that Member State or country.

⁽¹⁾ It is understood that the ERC is responsible for supporting frontier research in all areas of science and technology.

⁽²⁾ It is understood that responsibility for mobility of researchers between all areas of science and technology rests with the People Programme under the Union Framework Programme.

Where appropriate, those carrying out research projects must seek the approval of the relevant national or local ethics committees prior to the start of the RTD activities. An ethical review will also be implemented systematically by the Commission for proposals dealing with ethically sensitive issues or where ethical aspects have not been adequately addressed. In specific cases an ethical review may take place during the implementation of a project.

Article 13 of the Treaty on the functioning of the European Union requires the Union and the Member States to pay full regard to the welfare requirements of animals in formulating and implementing Union's policies including research. Council Directive 86/609/EEC of 24 November 1986 on the approximation of laws, regulations and administrative provisions of the Member States regarding the protection of animals used for experimental and other scientific purposes⁽¹⁾ requires that all experiments be designed to avoid distress and unnecessary pain and suffering to the experimental animals; use the minimum number of animals; involve animals with the lowest degree of neurophysiological sensitivity; and cause the least pain, suffering, distress or lasting harm. Altering the genetic heritage of animals and cloning of animals may be considered only if the aims are ethically justified and the conditions are such that the animals' welfare is guaranteed and the principles of biodiversity are respected. During the implementation of this specific programme, scientific advances and national and international provisions will be regularly monitored by the Commission so as to take account of any developments.

⁽¹⁾ OJ L 358, 18.12.1986, p. 1.

COUNCIL DECISION

of 19 December 2011

concerning the specific programme, to be carried out by means of direct actions by the Joint Research Centre, implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013)

(2012/95/Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission submitted after consultation of the Scientific and Technical Committee,

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) In accordance with Council Decision 2012/93/Euratom of 19 December 2011 concerning the Framework Programme of the European Atomic Energy Community for research and training activities (2012-2013) ⁽³⁾ (hereinafter 'the Framework Programme') the Framework Programme is to be implemented through specific programmes that define detailed rules for their implementation, fix their duration and provide for the means deemed necessary.

(2) The Framework Programme comprises two types of activities: indirect actions in fusion energy research and research on nuclear fission, safety and radiation protection, and direct actions for activities of the Joint Research Centre (JRC) in the field of nuclear waste management, environmental impact, safety and security, especially related to nuclear events and taking into account lessons learned from previous experiences. The direct actions should be implemented by this specific programme.

(3) The JRC should implement the research and training activities to be carried out by means of direct actions under this specific programme.

(4) In implementing its mission, the JRC should provide customer-driven scientific and technical support to the Union policymaking process, ensuring support for the implementation and monitoring of existing policies and responding to new policy demands. In order to achieve its mission, the JRC should carry out research of the highest European quality, including by maintaining its own level of scientific excellence.

(5) In implementing this specific programme, emphasis should be given to promoting the mobility and training of researchers and promoting innovation, in the Union. In particular, the JRC should provide appropriate training in nuclear safety and security.

(6) This specific programme should be implemented in a flexible, efficient and transparent manner, taking into account the relevant needs of the JRC users and Union policies, while protecting the Union financial interests. The research activities carried out under this specific programme should be adapted where appropriate to these needs and to scientific and technological developments and aim to achieve scientific excellence.

(7) For implementing this specific programme, cooperation under the Agreement on the European Economic Area or under an Association Agreement may be complemented by international cooperation, in particular on the basis of Article 2(h), Article 101 and Article 102 of the Treaty, with third countries and international organisations.

(8) In the context of enlargement and integration activities, the JRC aims to promote the integration of the organisations and researchers of new Member States within its activities in particular for implementing of the science and technology components of the Union *acquis*, as well as increased cooperation with organisations and researchers from accession and candidate countries. A progressive opening should also be envisaged towards the neighbouring countries, specifically on priority topics of the European Neighbourhood Policy.

(9) The JRC should continue to generate additional resources through competitive activities. These include participation in the indirect actions of the Framework Programme, third-party work and, to a lesser extent, the exploitation of intellectual property.

⁽¹⁾ Opinion of 15 November 2011 (not yet published in the Official Journal). Opinion delivered following non-compulsory consultation.

⁽²⁾ OJ C 318, 29.10.2011, p. 127. Opinion delivered following non-compulsory consultation.

⁽³⁾ See page 25 of this Official Journal.

(10) Sound financial management of this specific programme and its implementation should be ensured in an effective and user-friendly manner, while ensuring legal certainty and the accessibility of the results of the programme for all participants, in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾.

(11) Appropriate measures — proportionate to the Union's financial interests — should be taken to monitor both the effectiveness of the financial support granted and the effectiveness of the utilisation of these funds in order to prevent irregularities and fraud. The necessary steps should be taken to recover funds lost, wrongly paid or incorrectly used in accordance with Regulation (EC, Euratom) No 1605/2002, Regulation (EC, Euratom) No 2342/2002, Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ⁽³⁾, Council Regulation (EC, Euratom) 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 ⁽⁴⁾ and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽⁵⁾.

(12) The Commission should in due course arrange for an independent assessment to be conducted concerning the activities carried out in the fields covered by this specific programme.

(13) Research activities carried out within this specific programme should respect fundamental ethical principles, including those reflected in the Charter of Fundamental Rights of the European Union,

HAS ADOPTED THIS DECISION:

Article 1

The specific programme, to be carried out by means of direct actions by the Joint Research Centre (JRC), implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) (hereinafter the 'specific programme'), is adopted for the period from 1 January 2012 to 31 December 2013.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 357, 31.12.2002, p. 1.

⁽³⁾ OJ L 312, 23.12.1995, p. 1.

⁽⁴⁾ OJ L 292, 15.11.1996, p. 2.

⁽⁵⁾ OJ L 136, 31.5.1999, p. 1.

Article 2

The specific programme shall establish the activities for the nuclear actions of the JRC, supporting the whole range of research actions carried out in trans-national cooperation in the following thematic areas:

- (a) nuclear waste management, environmental impact and basic knowledge;
- (b) nuclear safety of reactor systems of relevance to Europe;
- (c) nuclear security (including nuclear safeguards, non-proliferation, combating illicit trafficking and nuclear forensics).

The objectives and broad lines of the activities referred to in the first paragraph are set out in the Annex.

Article 3

In accordance with Article 3 of Decision 2012/93/Euratom, the maximum amount for the execution of the specific programme is EUR 233 216 000.

Article 4

All research activities carried out under the specific programme shall be carried out in compliance with fundamental ethical principles.

Article 5

The specific programme shall be implemented by means of direct actions as established in Annex II to Decision 2012/93/Euratom.

Article 6

1. The Commission shall draw up a multiannual work programme for the implementation of the specific programme, setting out in greater detail the objectives and scientific and technological priorities set out in the Annex, and the timetable for implementation.

2. The multiannual work programme shall take account of relevant research activities carried out by the Member States, associated states and European and international organisations. It shall be updated where appropriate.

Article 7

The Commission shall arrange for the independent monitoring, assessment and review provided for in Article 6 of Decision 2012/93/Euratom to be conducted concerning the activities carried out in the fields covered by the specific programme.

Article 8

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

Done at Brussels, 19 December 2011.

For the Council
The President
M. KOROLEC

ANNEX

SPECIFIC PROGRAMME OF THE JOINT RESEARCH CENTRE**1. Objective**

The overall objective of the specific programme is to provide customer-driven scientific and technical support to the Union policy concerning nuclear energy, and to meet the obligations of the Treaty. To achieve this goal, knowledge, skills and competence need to be continuously updated, in order to provide the required state-of-the-art expertise in the domains of nuclear reactor safety and nuclear safeguards and security.

2. Approach

The nuclear activities of the JRC aim to meet the research and development (R & D) obligations of the Treaty and to support both the Commission and Member States in the fields of safeguards and non-proliferation, waste management, safety of nuclear installations and the fuel cycle, radioactivity in the environment, and radiation protection. In the light of the reinforced emphasis on nuclear safety contributing to reorientation of nuclear research, the area of non-proliferation shall receive the greatest possible attention.

For the Framework Programme, research and support activity will continue to focus on:

- (a) nuclear waste management, environmental impact and basic knowledge;
- (b) nuclear safety of reactor systems of relevance to Europe;
- (c) nuclear security (including nuclear safeguards, non-proliferation, combating illicit trafficking, and nuclear forensics).

Moreover, the JRC will further strengthen its role as a European reference for the dissemination of information, training and education for young scientists.

3. Activities**3.1. Nuclear waste management, environmental impact and basic knowledge****3.1.1. Spent fuel and high-level waste characterisation, storage and disposal**

The management of spent fuel and nuclear high-level waste involves their processing, conditioning, transport, interim storage and geological disposal. The ultimate goal is to prevent the release of radio-nuclides into the biosphere during all these stages over their very long decay time scale. The design, assessment and functioning of engineered and natural containment barrier systems over the relevant time scales are key to achieving these objectives and depend among other things on fuel and/or waste behaviour in the geological environment. Such studies are covered by this specific programme.

3.1.2. Partitioning and transmutation

The main strategy considered for nuclear energy systems includes closing the nuclear fuel cycle, with the aim of reducing the long-term radio-toxicity of the nuclear waste and enhancing the safe and efficient use of resources. The major challenges for this concept remain the optimisation of partitioning techniques, to separate selected long-lived radio-nuclides from the spent fuel, and the fabrication and qualification of safe and reliable fuels for actinide transmutation. Experimental work on partitioning at the JRC includes research on both aqueous dissolution and pyro-metallurgical processes (in salt media).

3.1.3. Basic actinide research

To maintain competence and a leading position in the field of civil nuclear technology, it is essential to foster interdisciplinary basic research on nuclear materials as a resource from which new technological innovations can emerge. In turn, this requires knowledge of the response of the so-called '5f electronic layer elements' (i.e. the actinides) and compounds to (usually extreme) thermodynamic parameters. Because of the small experimental database and the intrinsic complexity of modelling, our current knowledge of these mechanisms is limited. Basic research addressing these issues is crucial for understanding the behaviour of these elements and to remain at the forefront of contemporary condensed matter physics. Developments in advanced modelling and simulation will be leveraged to boost the impact of the experimental programmes.

The JRC's basic actinide research programme will remain at the forefront of actinide physics and chemistry, the main goal being to provide world-class experimental facilities to scientists from universities and research centres. These will allow them to investigate the properties of actinide materials, in order to complete their education and to contribute to advances in nuclear sciences.

3.1.4. Nuclear data

The proposed designs for dedicated minor actinide burners and advanced concepts for nuclear energy production result in new demands for nuclear data with significantly improved accuracy. The quality of experimental data is a key issue for better safety standards and reduced error margins, and hence cost effectiveness in the design and construction of new reactor systems. The data files used, including those of OECD Nuclear Energy Agency, by industry and research laboratories have to be complete, accurate and validated by well-defined quality assurance procedures.

The JRC will produce internationally required data and will also continue the safe operation of the Van de Graaff and GELINA linear accelerators.

3.1.5. Medical applications from nuclear research

New cancer therapies called targeted alpha therapy (TAT), are taking advantage of the unique physical properties of alpha particle radiation (in particular its high energy and short path length in human tissue) to selectively target and destroy diseased cells while sparing surrounding healthy tissue. These techniques can be used for the treatment of cancer and infectious diseases.

The JRC will continue to support the development of TAT in close cooperation with national organisations with a special focus on alternative processes for the production of alpha emitters and the radio-biological testing of radio-labelled bio-molecules, assessing their efficiency and feasibility and making these new applications available for implementation by hospitals and the pharmaceutical industry.

3.1.6. Monitoring of radioactivity in the environment

Title II, Chapter 3, of the Treaty provides for the establishment of basic safety standards for the health protection of workers and the general public against the dangers arising from ionising radiation. Articles 31 to 38 of the Treaty provide rules on the role of the Member States and the Commission with regard to the protection of human health, the control of levels of radioactivity in the environment, release into the environment, and nuclear waste management. This will also include key aspects related to accident management. Under Article 39 of the Treaty, the JRC provides assistance to the Commission in carrying out this task.

In view of the new limits for radio-nuclides in drinking water and food ingredients, the JRC will develop analytical techniques and produce corresponding reference materials. Inter-laboratory comparisons will be organised with the monitoring laboratories of the Member States to assess the comparability of the reported monitoring data under Articles 35 and 36 of the Treaty, and to support the harmonisation of the radioactivity monitoring systems with reference test materials.

3.1.7. Knowledge management, training and education

It is important to maintain and deepen the nuclear knowledge of the new generations of nuclear scientists and engineers, through dissemination of experiments, results, interpretations and skills acquired in research and applied programmes.

The JRC will contribute to making this knowledge readily available, properly organised and well documented and to supporting higher education activities in Europe for both operating and innovative Generation IV reactors. Furthermore, the JRC will develop the European Nuclear Human Resources Observatory to analyse the trends in Europe and provide scientific support for the Union policy making. The JRC will also continue to contribute to better communication on nuclear issues, in particular regarding public acceptability and more globally on strategies for overall energy awareness. The long experience and unique facilities for nuclear data measurements are also an excellent opportunity for the education and training of nuclear scientists and engineers, supplementing education at universities by giving hands-on access to nuclear installations.

3.2. Nuclear safety

3.2.1. Nuclear reactor safety

In order to maintain and improve the safety level of nuclear power plants, advanced and refined safety assessment methodologies and corresponding analytical tools have to be extended and validated. Targeted experimental investigations are carried out at the JRC to improve the understanding of the underlying physical phenomena and processes in order to enable validation and verification of deterministic and probabilistic safety assessments, based on advanced modelling of plant processes (reactivity and thermal-hydraulic), of components under operational loads/ageing, and of human and organisational factors. The JRC will also continue to play a central role in the establishment and operation of the European Clearinghouse for Operational Experience Feedback for the benefit of all Member States. It will provide topical reports on specific plant issues and facilitate the efficient sharing and implementation of operational experience feedback to improve the safety of nuclear power plants, both for the benefit of all European regulators and in order to minimise the probability of nuclear accidents. It will carry out research programmes in support to the development of safety requirements and advanced evaluation methods for reactor systems of relevance to nuclear safety. It will also include key aspects of research on decommissioning of reactors and their infrastructures (methodologies, training, scientific background).

3.2.2. Nuclear fuel safety in power reactors operating in the Union

Generation II and III light-water reactors will probably operate throughout the 21st century. In order to maximise their safety, an improved understanding of the in-pile behaviour of the fuel rod system (fuel and cladding) must be ensured, especially in relation to extended operation schemes, covering normal, incidental and accidental conditions. The two main aspects of this research are the mechanical integrity of the fuel rods during reactor lifetime and the fuel response to transient conditions (including severe reactor accident conditions up to core meltdown).

Ultimately, experiment and theory on well-defined physical and chemical mechanisms must be incorporated into multi-scale models and eventually fuel performance codes.

JRC research will also be devoted to improving the experimental benchmark for UO_2 and MOX fuel behaviour at high burn-up.

3.2.3. Safe operation of advanced nuclear energy systems

New reactor concepts for increased safety, safeguards and sustainability are considered worldwide to be a new research topic, in particular within the Generation IV International Forum (GIF). The JRC has been given a mandate by the Member States to act as the Implementing Agent for the participation of the Community in GIF. As such, the JRC will further coordinate the European contributions (through direct or indirect actions, or via the Member States) in the various GIF projects.

The studies performed in JRC laboratories primarily cover the safety aspects of new innovative designs and innovative fuel cycles, in particular the characterisation, irradiation testing and post-irradiation examination of new fuel types, as well as innovative structural and cladding materials characterisation and qualification. Furthermore, studies are being carried out into the safety requirements of the new generation of reactors, and the advanced evaluation of relevant nuclear systems. The aim is to support the establishment of a common European approach to the safety evaluation of new innovative designs. In this regard synergies with SNETP will be sought as appropriate.

3.3. Nuclear security

3.3.1. Nuclear safeguards

Due to the enhanced role played by nuclear energy in the production of electricity in Europe, and in the world, the handling of nuclear materials in the fuel cycle is continuously increasing. To prevent any diversion of these materials from their intended use, a strong and reliable system of nuclear safeguards and non-proliferation is crucial. Technical innovations and improvements continue to be required to implement the evolving safeguards policy. Today's challenge is to implement increased automation and better tools for information analysis to reduce both inspector workload and the burden on the nuclear industry. New and innovative safeguards approaches will also be applied for reactor systems of relevance to Europe and their corresponding fuel cycles.

3.3.2. Additional Protocol

The Additional Protocol aims to prevent undeclared nuclear operations. Its implementation requires a number of techniques different from (or more evolved than) those used in verifying nuclear material accountancy. Increased work is anticipated for checking the completeness of declarations, which will require more R & D on methods to detect clandestine programmes, in some cases by using the same techniques as in nuclear forensics. Major efforts will be needed to improve methods of trace particle analysis for the verification of declared activities or for the detection of undeclared activities.

3.3.3. Open-source information collection on nuclear non-proliferation

With the aim of supporting Commission services and collaborating with IAEA and Member State authorities, the JRC will continue to systematically collect and analyse information from a variety of sources (Internet, specialised literature, databases) on nuclear non-proliferation issues. This information will be used to produce country reports to closely monitor the evolution of nuclear activities and the import and/or export of direct and dual-use nuclear equipment and technology in selected countries. In addition, the JRC will follow the technical evolution of export control regimes and will provide technical support to relevant Commission services.

3.3.4. Combating illicit trafficking of nuclear materials, including nuclear forensic analysis

The concerns arising from illicit trafficking of nuclear and other radioactive material, the proliferation risks associated with it and the threat of nuclear terrorism call for a set of measures to address prevention, detection and response. Nuclear security is getting increased attention at all levels, ranging from international initiatives (Global Initiative on Combating Nuclear Terrorism, Proliferation Security Initiative, UNSC 1540, and others) to multilateral cooperation and technical developments. Training of staff is of key importance for the implementation of nuclear security measures. The JRC shares with the Member States and with international organisations its experience and expertise in the nuclear area in general and in the nuclear security area in particular.

To this end, different training programmes need to be developed or improved and the associated training modules have to be produced or updated. The JRC is going to establish a European Security Training Centre, which will initially focus on nuclear and radiological security.

4. Ethical aspects

During the implementation of this specific programme and in the research activities arising from it, fundamental ethical principles are to be respected. These include the principles enshrined in the Charter of Fundamental Rights of the European Union.

In compliance with the principle of subsidiarity and given the diversity of approaches in Europe, participants in research projects must conform to the current legislation, regulations and ethical rules in the countries where the research will be carried out. In any case, national provisions apply and no research forbidden in any given Member State or other country will be supported by Euratom funding in that Member State or country.

Where appropriate, those carrying out research projects must seek the approval of the relevant national or local ethics committees prior to the start of the activities. An ethical review will also be undertaken systematically by the Commission for proposals dealing with ethically sensitive issues or where ethical aspects have not been adequately addressed. In specific cases, an ethical review may be held during the implementation of a project.

Article 13 of the Treaty on the Functioning of the European Union requires the Union and the Member States to pay full regard to the welfare requirements of animals in formulating and implementing Union's policies including research.

COUNCIL DECISION

of 17 February 2012

adapting and extending the period of application of the appropriate measures first established by Decision 2002/148/EC concluding consultations with Zimbabwe under Article 96 of the ACP-EC Partnership Agreement

(2012/96/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 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⁾, as first amended in Luxembourg on 25 June 2005 ⁽²⁾, and amended for the second time in Ouagadougou on 23 June 2010 ⁽³⁾, hereinafter referred to as 'the ACP-EU Partnership Agreement', and in particular Article 96 thereof,

Having regard to the Internal Agreement between the representatives of the governments of the Member States, meeting within the Council, on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement ⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By Council Decision 2002/148/EC ⁽⁵⁾, the consultations with the Republic of Zimbabwe under Article 96(2)(c) of the ACP-EU Partnership Agreement were concluded and appropriate measures, as specified in the Annex to that Decision, were taken. Those measures have been extended each year since then.
- (2) By Council Decision 2011/106/EU ⁽⁶⁾, the period of application of the measures was extended for a further period of 12 months until 20 February 2012.
- (3) In the meantime, the creation of the Government of National Unity (GNU) has been recognised as an opportunity to re-establish a constructive relationship between the European Union and Zimbabwe and to support the implementation of its reform programme.
- (4) While the overall situation has improved, the implementation of political reforms remains slow, and certain essential elements of the ACP-EU Partnership Agreement, to which the GNU had committed in the Global Political Agreement, still need to be implemented.

- (5) The European Union recognises the efforts made by the Southern African Development Community and South Africa, as facilitators of the Global Political Agreement, to establish an environment conducive to credible elections. The completion of a peaceful referendum on the Constitution would represent an important part of this process,

HAS ADOPTED THIS DECISION:

Article 1

The measures referred to in the letter annexed to this Decision are hereby maintained as appropriate measures within the meaning of Article 96(2)(c) of the ACP-EU Partnership Agreement.

Those measures shall apply for a period of 6 months from 20 February 2012 until 20 August 2012. They shall be kept under constant review and shall be reassessed in light of concrete progress in the implementation of the Global Political Agreement and the preparation of peaceful and credible elections.

The letter annexed to this Decision shall be addressed to the President of Zimbabwe, Mr Mugabe, and copied to Prime Minister Tsvangirai and Mr Welshman Ncube.

Article 2

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

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 17 February 2012.

For the Council
The President
M. SAREEN

⁽¹⁾ OJ L 317, 15.12.2000, p. 3.

⁽²⁾ OJ L 209, 11.8.2005, p. 27.

⁽³⁾ OJ L 287, 4.11.2010, p. 3.

⁽⁴⁾ OJ L 317, 15.12.2000, p. 376.

⁽⁵⁾ OJ L 50, 21.2.2002, p. 64.

⁽⁶⁾ OJ L 43, 17.2.2011, p. 31.

ANNEX

LETTER TO THE PRESIDENT OF ZIMBABWE

The European Union attaches the utmost importance to the provisions of Article 9 of the ACP-EU Partnership Agreement. As essential elements of the Partnership Agreement, respect for human rights, democratic institutions and the rule of law form the basis of our relations.

By letter of 19 February 2002, the European Union informed you of its decision to conclude the consultations held under Article 96 of the ACP-EU Partnership Agreement and to take appropriate measures within the meaning of Article 96(2)(c) of that Agreement. By annual letters, the latest one dated 23 February 2011, the European Union informed you of its decisions not to revoke the appropriate measures and to extend their period of application.

Since its inception in 2009, progress achieved by the Government of National Unity based on the Global Political Agreement (GPA) has been welcomed by the European Union. The European Union reiterates the great importance it attaches to the political dialogue provided for in Article 8 of the ACP-EU Partnership Agreement, and officially launched at the request of the Government of Zimbabwe at the EU-Zimbabwe Ministerial Troika on 18-19 June 2009 in Brussels. As agreed by both parties, the objective of this political dialogue is to progressively normalise EU-Zimbabwe relations along the implementation of the reforms foreseen in the GPA, paving the way for peaceful and credible elections.

As part of its overall re-engagement process, the European Union has taken steps towards easing measures applying to Zimbabwe. Appropriate measures were modified to allow support to institutions and processes related to the implementation of the GPA. The European Union has provided provisional transitional financial assistance in the form of short-term packages.

Since then, the European Union has continued supporting the ongoing efforts of the Government of National Unity to implement the GPA, and has welcomed the achievements made in stabilising the economy and restoring basic social services. However, the European Union still awaits progress on several of the political reforms of the GPA, including the constitutional process and reforms needed to create a conducive environment for peaceful and credible elections, as well as progress in the areas of respect for human rights and the rule of law. In this context, the European Union welcomes the facilitation efforts led by the Republic of South Africa and the Southern African Development Community, and the establishment of a roadmap agreed by all parties.

The European Union welcomes recent statements made by all Zimbabwean parties against political violence, and remains hopeful that recent social and economic progress will be complemented by political reforms leading to peaceful and credible elections.

To further accompany the transitional process, the European Union has decided:

- to extend its appropriate measures set out in Council Decisions 2002/148/EC and 2010/97/CFSP for a reduced period of 6 months, thereby reiterating the European Union's willingness to reconsider its position at any time following concrete steps in implementing the Global Political Agreement and in preparing for elections,
- to prepare a Country Strategy Paper in the framework of the European Development Fund to be signed and implemented as soon as conditions allow.

Meanwhile, the European Union will continue to provide transitional assistance to the economic recovery, social sectors and the implementation of the GPA.

All the other measures listed in the Annex to Council Decision 2002/148/EC shall continue to apply without changes. The Council Decision may, if circumstances change, be reviewed at any time prior to 20 August 2012.

In the light of the above, the European Union wishes to invite the Government of Zimbabwe to an intensified political dialogue under Article 8 of the ACP-EU Partnership Agreement in order to define further steps towards normalisation of EU-Zimbabwe relations. Against this background, the European Union would welcome the visit of the Zimbabwe Re-engagement Committee to Brussels, which it hopes can be arranged for the near future.

Yours faithfully,

For the Commission

...

For the Council

...

COUNCIL DECISION 2012/97/CFSP**of 17 February 2012****amending Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Article 29 thereof,

Whereas:

- (1) On 15 February 2011, the Council adopted Decision 2011/101/CFSP concerning restrictive measures against Zimbabwe ⁽¹⁾.
- (2) On the basis of a review of Decision 2011/101/CFSP, the restrictive measures should be renewed until 20 February 2013.
- (3) However, there are no longer grounds for keeping certain persons and entities on the list of persons and entities to which the restrictive measures provided for in Decision 2011/101/CFSP apply.
- (4) In order to facilitate further the dialogue between the EU and the Government of Zimbabwe, the travel ban imposed on the two members of the re-engagement team of the Zimbabwe Government listed under Decision 2011/101/CFSP should be suspended.
- (5) The information relating to certain persons and entities included on the list in the Annex to Decision 2011/101/CFSP should be updated,

HAS ADOPTED THIS DECISION:

Article 1

Council Decision 2011/101/CFSP is hereby amended as follows:

- (1) Article 10 is replaced by the following:

‘Article 10

1. This Decision shall enter into force on the date of its adoption.
 2. This Decision shall apply until 20 February 2013.
 3. The measures referred to in Article 4(1), in so far as they apply to persons listed in Annex II, shall be suspended until 20 February 2013.
 4. This Decision shall be kept under constant review and shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met.’;
- (2) the Annex shall be replaced by the text set out in Annex I to this Decision and the term ‘Annex’ shall be replaced by ‘Annex I’ throughout Decision 2011/101/CFSP;
- (3) Annex II to this Decision shall be added as Annex II to Decision 2011/101/CFSP.

Article 2

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

Done at Brussels, 17 February 2012.

For the Council

The President

M. SAREEN

⁽¹⁾ OJ L 42, 16.2.2011, p. 6.

ANNEX I

‘ANNEX I

LIST OF PERSONS AND ENTITIES REFERRED TO IN ARTICLES 4 AND 5

I. Persons

	Name (and any aliases)	Identifying information	Grounds for designation
1.	Mugabe, Robert Gabriel	President, born 21.2.1924; Passport AD001095.	Head of Government and responsible for activities that seriously undermine democracy, respect for human rights and the rule of law.
2.	Abu Basutu, Titus Mehliwa Johna	Air Vice-Marshal, Matebeleland South. Born 2.6.1956.	Senior military officer, directly involved in the terror campaign waged before and during the elections in the Gwanda area. Deputy to Air Marshal Perence Shiri (100 on the list).
3.	Bonyongwe, Happyton Mabhuya	Director-General Central Intelligence Organisation, born 6.11.1960; Passport AD002214; ID 63-374707A13.	Senior security figure with a close association with the ZANU-PF (Zimbabwe African National Union – Patriotic Front) faction of the government and complicit in forming or directing repressive state policy. Accused of kidnapping, torturing and killing MDC activists in June 2008.
4.	Buka (a.k.a. Bhuka), Flora	President's office (former Minister of State for Special Affairs responsible for Land and Resettlement Programmes, former Minister of State in the Vice-President's office and former Minister of State for the Land Reform in the President's Office), born 25.2.1968.	Minister of State in Vice-President Nkomo's Office Responsible for organising violence in the Gokwe area and targeting the MDC leadership in 2008.
5.	Bvudzijena, Wayne	Assistant Police Commissioner, Police Spokesperson; born 24.4.1958. ID 29-008792V71.	Senior member of police force. Police spokesperson. In 2008 blamed MDC for sheltering those responsible for electoral violence in the MDC's provincial and national headquarters.
6.	Chapfika, David	Former Deputy Minister of Agriculture (former Deputy Minister of Finance), born 7.4.1957; Passport ZL037165. ID 63-052161G48.	National Chairman of the ZANU-PF fund-raising Committee, sponsored militias in 2008 by providing support to militia bases in the Hoyuyu area of Mutoko.
7.	Charamba, George	Permanent Secretary, Department for Information and Publicity, born 4.4.1963; Passport AD002226; Passport AD001255 ID 07-003617B07.	Senior civil servant closely associated with the ZANU-PF faction of the government.
8.	Chidarikire, Faber Edmund	Provincial Governor for Mashonaland West, former Mayor of Chinhoyi, born 6.6.1946; ID 70-056539L70.	Former ZANU-PF mayor of Chinoyi and provincial governor associated with the ZANU-PF faction of the Government.
9.	Chigudu, Tinaye Elisha Nzirasha	Former Provincial Governor: Manicaland. Born 13.8.1942. Passport AD000013. ID 63-022247R42.	Former Permanent Secretary of the Ministry of Mines and Mines Development in Zimbabwe and former provincial governor of Manicaland. Associated with the ZANU-PF faction of the government. In June 2008 ordered repression of MDC supporters.

	Name (and any aliases)	Identifying information	Grounds for designation
10.	Chigwedere, Aeneas Soko	Provincial Governor: Mashonaland East, former Minister, born 25.11.1939. ID 25-15430J80.	Provincial Governor associated with the ZANU-PF faction of the government.
11.	Chihota, Phineas	Deputy Minister for Industry and International Trade. Born 23.11.1950.	ZANU-PF Member of Government. Threatened MDC supporters with death and associated with abduction and torture of people in June 2008.
12.	Chihuri, Augustine	Police Commissioner, born 10.3.1953. Passport AD000206. ID 68-034196M68.	Senior police officer and member of the Joint Operational Command, closely associated with the repressive policies of ZANU-PF. Publicly confessed to support ZANU-PF in contravention of the Police Act. In June 2009 ordered the police to drop all cases related to murders committed to the run-up to the June 2008 Presidential election.
13.	Chinamasa, Patrick Anthony	Minister of Justice, Legal and Parliamentary Affairs, born 25.1.1947. ID 63-005591M42.	ZANU-PF Member of Government.
14.	Chindori-Chininga, Edward Takaruza	Former Minister of Mines and Mining Development, born 14.3.1955. Passport AN388694. ID 63-377216C71.	Former member of the Government with ongoing ties to the ZANU-PF faction of government as ZANU-PF Member of Parliament. Commander of the militia bases in Guruve in the run-up to the 2008 elections.
15.	Chinotimba, Joseph	Vice Chairman of the Zimbabwe National Liberation War Veterans Association, leader of ZANU-PF militia. Born 6.6.1957. ID 63-312672W11.	During the 2008 elections Chinotimba led group who destroyed Admore Chibutu's home. Together with army members and ZANU-PF supporters attacked Tongeyi Jeremiah's home on May 2008.
16.	Chipanga, Tongesai Shadreck	Former Deputy Minister of Home Affairs, born 10.10.1940 alt. 10.10.1946.	Former member of the Government and former director of Zimbabwe's secret police, associated with politically motivated murder.
17.	Chipwere, Augustine	Brigadier General, former Colonel, Bindura South.	Directly involved in the terror campaign before and during the 2008 elections. Responsible for political upheaval in Bindura. Senior military officer, promoted by the President in 2011.
18.	Chiwenga, Constantine	Commander Zimbabwe Defence Forces, General (former Army Commander, Lieutenant General), born 25.8.1956. Passport AD000263. ID 63-327568M80.	Member of Joint Operational Command and complicit in forming or directing repressive state policy. Used army for farm takeovers. During 2008 elections was a prime architect of the violence associated with the process of the Presidential run-off.
19.	Chombo, Ignatius Morgan Chiminya	Minister of Local Government, Urban and Rural Development, born 1.8.1952. Passport AD000500. ID 70-086938D70.	ZANU-PF Member of the Government and responsible for undermining MDC in local government by restricting funding and harassment.

	Name (and any aliases)	Identifying information	Grounds for designation
20.	Dinha, Martin	Provincial Governor for Mashonaland Central.	Provincial governor associated with ZANU-PF faction of government. Involved in farm disruptions at Rockwood village concession 2009.
21.	Goche, Nicholas Tasunungurwa	Minister of Transport, Communications and Infrastructural Development (former Minister of State for National Security in the President's Office), born 1.8.1946. ID 63-355978S68.	ZANU-PF Member of the Government. In June 2008 forced all NGOs to cease their field work and food distribution. Responsible for militia base in Shamva and implicated in violence in that area.
22.	Gono, Gideon	Governor of the Reserve Bank of Zimbabwe (central bank), born 29.11.1959. Passport AD000854. ID 58-001824K07.	Ties to the ZANU-PF faction of the Government and complicit in forming or directing repressive state policy. Illegally channelled funds to ZANU-PF in 2008.
23.	Gurira, Cephas T.	Brigadier; former Colonel, Zimbabwe Defence Forces. Born 1.5.1963. ID 29-061056D29.	Directly involved in the terror campaign waged before and during the 2008 elections. Responsible for inciting violence in Mhondoro.
24.	Gwekwerere, Stephen (alias Steven)	Colonel, Chinhoyi.	Directly involved in the terror campaign waged before and during the elections. Part of group that assaulted people in Chinhoyi in 2008.
25.	Kachepa, Newton	Member of Parliament for Mudzi North. Born 10.2.1970. ID 32-088209M48.	Member of Parliament, involved in the murder of Peter Tom Butao on 14 April 2008 and Kingswell Mateta in July 2008. He directed the torture of many MDC supporters in his constituency.
26.	Karakadzai, Mike Tichafa	Air Commodore, Harare Metropolitan Province. Born 7.3.1957. ID 63-632526N13.	Directly involved in the terror campaign waged before and during the elections by leading the abductions and violence in Harare in 2008.
27.	Kasukuwere, Saviour	Deputy Minister for Youth Development Indigenisation and Empowerment and ZANU-PF Politburo Deputy-Secretary for Youth Affairs, born 23.10.1970. ID 45-046113Q45.	ZANU-PF Member of the Government. Organised those involved in violent riots in Harare in February 2011.
28.	Kazangarare, Jawet	ZANU-PF Councillor in Hurungwe North and war veteran. Born 12.4.1957. ID 38-102814B58.	Directly involved in the government-orchestrated terror campaign waged before and during the elections in 2008. Responsible for spearheading violent persecution of MDC supporters in Hurungwe, including rape, murder and destruction of homes and notably involved in murdering Tapiwa Mubwanda, MDC electoral agent in Hurungwe North in May 2008.
29.	Khumalo, Sibangumuzi	Brigadier General, Matebeleland North. Born 16.8.1954. ID 08-448357W73.	Directly involved in the terror campaign waged before and during the elections. In February 2011, alleged to be part of strategy to unleash violence and terror by deploying senior officers to coordinate the campaign to retain Mugabe in power.

	Name (and any aliases)	Identifying information	Grounds for designation
30.	Kunonga, Nolbert (a.k.a. Nobert)	Self-appointed Anglican Bishop.	Vociferous supporter of the regime. His followers were backed by the police in committing acts of violence against church supporters in 2011.
31.	Kwainona, Martin	Assistant Commissioner, born 19.1.1953; Passport AD001073. ID 63-293627V45.	Senior police officer, passed orders to local authorities to incite violence in Kanyuchi Village, Mount Darwin in April 2008.
32.	Kwenda, R.	Major, Zaka East.	Directly involved in the terror campaign waged before and during the elections. Leader of violence in Zaka in 2008.
33.	Langa, Andrew	Deputy Minister for Public Service (former Deputy Minister of Transport and Communications). Born 13.1.1965. ID 21-017934E21.	ZANU-PF Member of the Government. In 2005 opened fire on 11 members of the MDC Youth Assembly. Intimidated voters on election day 2008.
34.	Mabunda, Musarashana	Assistant Police Commissioner. Born 11.11.1958. ID 22-026198T13.	Member of the security forces and bearing wide responsibility for serious violations of the freedom of peaceful assembly. Directed 11 March 2007 beatings, torture and repression. In June 2008 threatened to kill Lovemore Madhuku.
35.	Machaya, Jason (a.k.a. Jaison) Max Kokerai	Provincial Governor: Midlands. Former Deputy Minister of Mines and Mining Development, born 13.6.1952. ID 26-003018Z26.	Provincial Governor: Midlands. Associated with ZANU-PF faction of Government. Used influence to block investigation into politically motivated murder which his son allegedly committed.
36.	Made, Joseph Mtakwese	Minister of Agricultural Engineering and Mechanisation (former Minister of Agriculture and Rural Development), born 21.11.1954. Passport AN000144. ID 29-128547N42.	ZANU-PF Member of the Government.
37.	Madzongwe, Edna (a.k.a. Edina)	ZANU-PF President of Senate, born 11.7.1943. ID 63-748119H32.	Member of the ZANU-PF politburo. Used influence to motivate political prosecutions in February 2008. Involved in violence in Chegutu including the takeover of the Stockade Citrus Estate in 2008, giving direct orders to those leading the repression.
38.	Mahofa, Shuvai Ben	Former Deputy Minister for Youth Development, Gender and Employment Creation, born 4.4.1941. Passport AD000369. ID 27-031942V27.	Sponsored those who established torture bases in Masvingo. Persons from these bases killed Mapurisa Zvidzai on 24 April 2008 and Tiziroy Moyo on 11 June 2008.
39.	Maluleke, Titus	Provincial Governor: Masvingo (former Deputy Minister of Education, Sports and Culture).	Provincial Governor associated with ZANU-PF members of government. Championed land invasions in Masvingo in 2009.
40.	Mangwana, Paul Munyaradzi	Chair of the Constitutional Select Committee (COPAC) and former Minister of State for Indigenisation and Empowerment, born 10.8.1961. Passport AD000459. ID 22-017031E12.	ZANU-PF Member of the Government. Sponsored and directed activities of ZANU-PF terror gangs in Chivi Central in May/June 2008.

	Name (and any aliases)	Identifying information	Grounds for designation
41.	Marumahoko, Reuben	Deputy Minister for Regional Integration and International Cooperation and former Deputy Minister for Foreign Affairs (former Deputy Minister for Home Affairs), born 4.4.1948. ID 63-311317Y71.	ZANU-PF Member of the Government. Commander of ZANU-PF militia in Hurungwe. With a group of ZANU-PF supporters and war veterans he assaulted MDC supporters and destroyed several homes in Hurungwe district between April and July 2008.
42.	Mashava, G.	Colonel, Chiredzi Central.	Led politically motivated violence in Chiredzi in 2008.
43.	Masuku, Angeline	Provincial Governor: Matabeleland South and ZANU-PF Politburo, Secretary for Disabled and Disadvantaged, born 14.10.1936. ID 08-266228E19.	Provincial Governor associated with ZANU-PF faction of government.
44.	Mathema, Cain Ginyiltshe Ndabazekhaya	Provincial Governor, Bulawayo. Born 28.1.1948. ID 63-682168J73.	Provincial Governor associated with ZANU-PF faction of government.
45.	Mathuthu, Thokozile (alias Sithokozile)	Provincial Governor: Matabeleland North and ZANU-PF Politburo, Deputy Secretary for Transport and Social Welfare.	Provincial Governor associated with ZANU-PF faction of government. In June 2008 used position to incite hatred against MDC supporters.
46.	Matibiri, Innocent Tonderai	Deputy Police Commissioner. Born 9.10.1968. ID 63-729730V70.	Senior member of the security forces, linked to the murder of a farm labourer.
47.	Matiza, Joel Biggie	Former Deputy Minister for Rural Housing and Social Amenities, born 17.8.1960. Passport ZA557399.	Former ZANU-PF Member of the Government. Organised bases in Murehwa West and South, from where ZANU-PF supporters which he supervised killed Edward Pfuka on 17 June 2008 and Moses Nyada on 19 June 2008.
48.	Matonga, Brighton (a.k.a. Bright)	Former Deputy Minister for Information and Publicity, born 1969.	Former ZANU-PF Member of the Government. Party spokesperson. Led a group of ZANU-PF supporters that murdered the wife of Dadidrayi Chipiro.
49.	Mhandu, Cairo (a.k.a. Kairo)	Major ZNA. Born 23.11.1960. ID 63-371574V15.	Directly involved in the campaign of terror waged before and after the elections in 2008. Led group of supporters and war veterans who killed Gibbs Tawenga and Hama Ngowani on 30 June 2008.
50.	Mhonda, Fidellis	Colonel, Rushinga. Born 2.1.1958. ID 75-139696G81.	Directly involved in the terror campaign waged before and during the 2008 elections. Led political violence in Rushinga.
51.	Midzi, Amos Bernard (Mugenva)	Former Minister of Mines and Mining Development (former Minister of Energy and Power Development), born 4.7.1952.	ZANU-PF party Chairman in Harare. Former member of the Government associated with ZANU-PF faction of government. Organised convoy of ZANU-PF supporters and soldiers who assaulted people and destroyed homes in June 2008. Linked with violence in Epworth, supporting militia bases in 2008 and again in 2011.
52.	Mnangagwa, Emmerson Dambudzo	Minister of Defence, born 15.9.1946. Passport AD00060. ID 63-450183P67.	ZANU-PF Member of Government and member of Joint Operation Command.

	Name (and any aliases)	Identifying information	Grounds for designation
53.	Mohadi, Kembo Campbell Dugishi	Co-Minister of Home Affairs (former Deputy Minister of Local Government, Public Works and National Housing), born 15.11.1949. ID 02-012912X02.	ZANU-PF Member of Government and member of Joint Operational Command.
54.	Moyo, Gilbert	'War veteran', leader of ZANU-PF militia.	Directly involved in the terror campaign waged before and during the 2008 elections in Mashonaland West (Chegutu); involved in violent farm takeovers.
55.	Moyo, Jonathan Nathaniel	Former Minister of State for Information and Publicity in the President's Office, born 12.1.1957. Passport AD000432. ID 63-857281M73.	Former member of the ZANU-PF Government. Incited violence and hatred, and architect of laws inhibiting freedom of speech.
56.	Moyo, Sibusio Bussie	Brigadier General ZNA.	Directly involved in the campaign of terror waged before and after the elections, including the murder of MDC supporters.
57.	Moyo, Simon Khaya	Chairman of ZANU-PF Politburo Deputy Secretary for Legal Affairs, born 1945. born 1.10.1945. Passport ZD001512. ID 63-735452P56.	Member of the ZANU-PF politburo with ongoing ties to its repressive policy.
58.	Mpabanga, S.	Lieutenant-Colonel, Mwenezi East.	Directly involved in the terror campaign waged before and during the elections. Led politically motivated violence in Mwenezi.
59.	Mpofu, Obert Moses	Minister for Mines and Mining Development, former Minister for Industry and International Trade (former Provincial Governor: Matabeleland North) (ZANU-PF Politburo Deputy Secretary for National Security), born 12.10.1951. Passport ZD001549. ID 08-186074F79.	ZANU-PF Member of Government. In March 2008 incited ZANU-PF supporters to drive MDC opponents out of their homes to stop them voting.
60.	Msipa, Cephas George	Former Provincial Governor: Midlands, born 7.7.1931. Passport ZD001500. ID 63-358147A67.	
61.	Muchena, Henry	Air Vice-Marshal, Midlands. Head of ZANU-PF Commissariat.	Senior military officer linked to ZANU-PF, directly involved in the terror campaign waged before and during the elections. Spearheaded violence in Zhombe and Gokwe during 2008.
62.	Muchena, Olivia Nyembesi (a.k.a. Nyembezi)	Minister for Women's Affairs, Gender and Community Development, former Minister of State for Science and Technology in the President's Office (former Minister of State in Vice-President Msika's Office), born 18.8.1946. Passport AD000086. ID 63-337191X50.	ZANU-PF Member of the Government. Linked to politically motivated murders and personally involved in the destruction of Revai Kativhu's home on 1 May 2008.

	Name (and any aliases)	Identifying information	Grounds for designation
63.	Muchinguri, Oppah Chamu Zvipange	ZANU-PF Politburo Secretary for Gender and Culture (former Minister for Women's Affairs, Gender and Community Development), born 14.12.1958. ID 63-741411R50.	Former ZANU-PF member of the Government; remains a member of ZANU-PF politburo. Played a lead role in the violence in Masvingo province in 2008.
64.	Muchono, C.	Lieutenant-Colonel, Mwenezi West.	Directly involved in the terror campaign waged before and during the elections, by leading terror campaign in Mwenezi in 2008.
65.	Mudede, Tobaiwa (a.k.a. Tonneth)	Registrar General, born 22.12.1942. ID 36-452750E70.	Ties to the ZANU-PF faction of Government and complicit in forming or directing state policy, notably in relation to election rigging.
66.	Mudenge, Isack Stanislaus Gorerazvo	Minister of Higher and Tertiary Education (former Minister of Foreign Affairs), born 17.12.1941, alt. 17.12.1948. Passport AD000964. ID 63-645385Q22.	ZANU-PF Member of Government.
67.	Mudonhi, Columbus	Assistant Inspector ZRP.	Directly involved in the campaign of terror waged before and after the elections, by leading violence in Buhera in 2008.
68.	Mugabe, Grace	Born 23.7.1965; Passport AD001159. ID 63-646650Q70.	Associated with the ZANU-PF faction of the government. Took over the Iron Mask Estate in 2002; alleged to illicitly derive large profits from diamond mining.
69.	Mugariri, Bothwell	Former Senior Assistant Police Commissioner.	Former member of the security forces and bearing wide responsibility for serious violations of the freedom of peaceful assembly. As Officer in charge in Harare, connected to violent operations in March 2007.
70.	Mujuru, Joyce Teurai Ropa	Vice President (former Minister of Water Resources and Infrastructural Development), born 15.4.1955. ID 63-445325J18.	ZANU-PF Member of Government.
71.	Mumba, Isaac	Superintendent.	Directly involved in the campaign of terror waged before and after the 2008 elections. In chain of command which organised violence in Soka village in Muzarabani.
72.	Mumbengegwi, Simbarashe Simbanenduku	Minister of Foreign Affairs, born 20.7.1945; Passport AD001086. ID 63-677272A12.	ZANU-PF Member of Government.
73.	Murerwa, Herbert Muchemwa	Minister of Lands and Rural Resettlement, born 31.7.1941. Passport AD001167. ID 25-021670R25.	ZANU-PF Member of Government
74.	Musariri, Munyaradzi	Assistant Police Commissioner.	Senior member of the security forces and bearing wide responsibility for serious violations of the freedom of peaceful assembly, notably in Murambatsvina in July 2005.

	Name (and any aliases)	Identifying information	Grounds for designation
75.	Mushohwe, Christopher Chindoti	Provincial Governor: Manicaland (former Minister of Transport and Communications, former Deputy Minister of Transport and Communications), born 6.2.1954. ID 63-101480P75.	Provincial Governor associated with ZANU-PF. In February 2009 accompanied by soldiers told the Chiadzwa community they would be relocated without compensation.
76.	Mutasa, Didymus Noel Edwin	Minister of State for Presidential Affairs in the President's Office, former Minister of State for National Security, Land Reform and Resettlement in the Office of the President, ZANU-PF, Secretary for Administration, born 27.7.1935. ID 63-358184Q42.	ZANU-PF Member of the Government. Involved in murders in Manicaland.
77.	Mutezo, Munacho Thomas Alvar	Former Minister for Water Resources and Infrastructural Development. Born 14.2.1954. Passport AN187189. ID 29-129727W44.	Former member of the Government, associated with ZANU-PF. Orchestrated a campaign of terror and intimidating MDC supporters in Chimanimani West in conjunction with the Zimbabwean National Army in August 2010.
78.	Mutinhiri, Ambros (a.k.a. Ambrose)	Former Minister of Youth Development, Gender and Employment Creation, Retired Brigadier. Born 22.2.1944. Passport AD000969. ID 63-285106H32.	Former ZANU-PF Member of Government. March 2008 led a group of ZANU-PF supporters to Landas and assaulted several MDC supporters. Set up and supported military bases in Chihota where many MDC supporters were assaulted and tortured.
79.	Mutsvunguma, S.	Colonel, Headlands.	Directly involved in the terror campaign waged before and during the elections in 2008 in Mutare and the Highlands.
80.	Mzembi, Walter	Minister for Tourism and the Hospitality Industry, former Deputy Minister for Water Resources and Infrastructural Development, born 16.3.1964. ID 22-050240B22.	ZANU-PF Member of the Government. Responsible for organising groups of ZANU-PF supporters to assault Masvingo residents prior to MDC's 8-year anniversary celebrations.
81.	Mzilikazi, Morgan S.	Colonel (MID), Buhera Central.	Directly involved in the terror campaign waged before and during the elections. Involved in election violence in Makoni and Buhera in 2008. In July 2008 abducted MDC MP for Buhera South.
82.	Nguni, Sylvester Robert	Minister of State in the President's Office, former Minister of Economic Development (former Deputy Minister for Agriculture), born 4.8.1955 alt 4.5.1955. Passport ZE215371. ID 63-453707V32.	ZANU-PF Member of the Government.
83.	Nhema, Francis Chenayimoyo Dunstan	Minister of Environment and Natural Resources Management and former Minister of Environment and Tourism, born 7.4.1959 alt 17.4.1959. Passport AD000966. ID 63-117843A66.	ZANU-PF Member of Government. In September 2009 forced safari operators to give up shares in ranches and conservancies.

	Name (and any aliases)	Identifying information	Grounds for designation
84.	Nkomo, John Landa	Vice-President. Former Speaker of House of Assembly (former Minister of Special Affairs in the President's Office), ZANU-PF national chairman, born 22.8.1934. Passport AD000477. ID 63-358161Q73.	Longest serving ZANU-PF Member of Government.
85.	Nyambuya, Michael Reuben	Former Minister for Energy and Power Development (former Lieutenant General, Provincial Governor: Manicaland), born 23.7.1955. Passport AN045019. ID 50-013758E50.	Former ZANU-PF member of Government. Involved in violence in Manicaland and used army personnel for farm take-overs.
86.	Nyanhongo, Magadzire Hubert	Deputy Minister of Energy and Power Development, former Deputy Minister of Transport and Communications. Born 26.11.1957. ID 34-032890W34.	ZANU-PF Member of the Government. Involved in organising anti-MDC violence in Epworth and Nyanga in 2011. Involved in politically motivated murder in 2008.
87.	Nyikayaramba, Douglas	Brigadier General, Mashonaland East. Commander 3rd Brigade.	Senior officer directly involved in the terror campaign waged before and during the 2008 elections. Ordered junior soldiers to deal with MDC supporters in Manicaland.
88.	Nyoni, Sithembiso Gile Glad	Minister of Small and Medium Enterprises Development and Employment Creation, born 20.9.1949. Passport AD000223. ID 08-434871M67.	ZANU-PF Member of Government.
89.	Parirenyatwa, David Pagwese	Former Minister of Health and Child Welfare (former Deputy Minister), born 2.8.1950. Passport AD000899. ID 63-320762P47.	Former ZANU-PF Member of the Government. Organised torture bases in Murehwa North and provided support to gangs who murdered Edward Pfukwa on 17 June 2008 and Alloys Chandisareva Sanyangore in November 2008.
90.	Rangwani, Dani	Police Detective Inspector. Born 11.2.1962. ID 70-006039V70.	Member of the security forces. Involved in group of 50 men paid directly by ZANU-PF to locate and torture MDC supporters in April 2007.
91.	Rugeje, Engelbert Abel	Major-General, Masvingo Province. Director, Defence Studies, Zimbabwe Defence Forces. Born 17.7.1959. ID 63-539305L04.	Senior army officer directly involved in the terror campaign waged before and during the 2008 elections by coordinating most of the violent incidents in Masvingo.
92.	Rungani, Victor Tapiwa Chashe	Colonel, Chikomba. Born 29.6.1949. ID 22-025306Z04.	Directly involved in the terror campaign waged before and during the elections in Chikomba in 2008, including assaults and abductions.
93.	Ruwodo, Richard	Director War Veterans Affairs in the Ministry of Defence. Brigadier General, promoted on 12 August 2008 to the rank of Major General (retired); former Acting PUS for Ministry of Defence, born 14.3.1954. ID 63-327604B50.	Senior army officer directly involved in the campaign of terror waged before and after the elections. Oversees the war veterans, which as a group have been used to carry out the repressive policies of the ZANU-PF faction of the government.

	Name (and any aliases)	Identifying information	Grounds for designation
94.	Sakupwanya, Stanley Urayayi	ZANU-PF Politburo Deputy Secretary for Health and Child Welfare. Born 14.5.1939. ID 63-435281R50.	Member of the ZANU-PF politburo associated with the ZANU-PF faction of the Government. Linked to electoral violence in Makoni during the 2008 Presidential elections. Commander of a base in Makoni used for interrogations.
95.	Savanhu, Tendai	ZANU-PF Deputy Secretary for Transport and Social Welfare, born 21.3.1968.	Member of the ZANU-PF politburo associated with the ZANU-PF faction of the Government. Organised militias to assault MDC supporters in Mbare, leading to violence and chaos, in February 2011. Involved in abductions of MDC women in June 2008.
96.	Sekeramayi, Sydney (a.k.a. Sidney) Tigere	Minister of State for National Security in the President's Office. Former Minister of Defence, born 30.3.1944. ID 63-358166W43.	ZANU-PF Member of Government and member of ZANU-PF Joint Operational Command.
97.	Sekeremayi, Lovemore	Chief Elections Officer.	Ties to the ZANU-PF faction of government and complicit in forming or directing oppressive state policy through election rigging in 2008.
98.	Shamu, Webster Kotiwani	Minister for Media, Information and Publicity; former Minister of State for Policy Implementation (former Minister of State for Policy Implementation in the President's Office), born 6.6.1945. Passport AN203141. ID 63-676065N32.	ZANU-PF Member of the Government involved activities interfering with the freedom of the press in 2009.
99.	Shamuyarira, Nathan Marwirakuwa	ZANU-PF Politburo Secretary for Information and Publicity, born 29.9.1928 or 29.9.1930. Passport AD000468. ID 63-327601Y32.	Member of the ZANU-PF politburo with strong ties to the ZANU-PF government faction. Involved in violent attempted farm take-over in September 2009 which ended in an arson attack.
100.	Shiri, Perence (a.k.a. Bigboy) Samson Chikerema	Air Marshal (Air Force), born 1.11.1955. ID 29-098876M18.	Senior military officer and member of ZANU-PF Joint Operational Command and complicit in forming or directing oppressive state policy. Involved in political violence in Chiadzwa in October 2008.
101.	Shungu, Etherton	Brigadier General, Mashonaland Central.	Senior military officer in the ZANU-PF Commissariat, directly involved in the terror campaign waged before and during the elections in Bindura in 2008.
102.	Sibanda, Chris	Colonel, Bulawayo Province.	Directly involved in the terror campaign waged before and during the elections in Byo in 2008.

	Name (and any aliases)	Identifying information	Grounds for designation
103.	Sibanda, Jabulani	Former Chair, National War Veterans Association, born 31.12.1970.	Ties to the ZANU-PF faction of government and complicit in forming or directing oppressive state policy. Involved in violence against MDC supporters in Makoni, Bikita, Masvingo and Guto particularly in relation to the implementation of an outreach programme in 2010.
104.	Sibanda, Misheck Julius Mpande	Cabinet Secretary (successor to Charles Utete), born 3.5.1949. ID 63-685365X67.	Associated with ZANU-PF faction of government. In March 2010 gave instructions to ministers and cabinet secretaries to report to ZANU-PF politicians and not the Prime Minister Morgan Tsvangirai.
105.	Sibanda, Phillip Valerio (a.k.a. Valentine)	Commander Zimbabwe National Army, Lieutenant General, born 25.8.1956 or 24.12.1954. ID 63-357671H26.	Senior army figure with ties to the Government and complicit in forming or directing oppressive state policy, blaming NGOs for unrest in September 2009.
106.	Sigauke, David	Brigadier General, Mash West Province.	Senior army figure directly involved in the terror campaign waged before and during the elections, including violence and torture against civilians in the diamond fields and threatening a coup if the MDC won the elections. Linked to violence in Chinhoyi in 2008.
107.	Sikosana, (a.k.a. Sikhosana), Absolom	ZANU-PF Politburo Secretary for Youth Affairs.	Member of the ZANU-PF politburo associated with the ZANU-PF faction of the Government. Threatened to unleash violence in 2011 if sanctions not removed.
108.	Tarumbwa, Nathaniel Charles	Brigadier General, Manicaland and Mutare South. Born 6.10.1960. ID 63-849216W75.	Senior military officer directly involved in the terror campaign waged before and during the elections. In charge of torture base in Makoni West, Mutasa Central in 2007/08.
109.	Tomana, Johannes	Attorney General. Born 9.9.1967. ID 50-036322F50.	ZANU-PF Member of Government.
110.	Veterai, Edmore	Senior Assistant Police Commissioner, Officer Commanding Harare. Born 20.11.1962. ID 08-260467S04.	Senior member of the security forces and bearing wide responsibility for serious violations of the freedom of peaceful assembly, and involved in invasion of Farm Thirty.
111.	Zhuwao, Patrick	Former Deputy Minister for Science and Technology. Born 23.5.1967. ID 63-621736K70.	Former ZANU-PF Member of Government. Disrupted Conference on the Constitution in July 2009. Terrorised MDC supporters around Norton, accompanied by CIO agents.
112.	Zimondi, Paradzai Willings	Prisons Director, born 4.3.1947. ID 75-145185Z47.	Member of Joint Operational Command and complicit in forming or directing oppressive state policy. Responsible for funding and accommodating militias in 2008. Ordered prison officers to vote for Mugabe, and responsible for human rights abuses in prisons.

II. Entities

	Name	Identifying information	Grounds for designation
1.	Cold Comfort Farm Trust Cooperative	7 Cowie Road, Tynwald, Harare, Zimbabwe.	Owned by Didymus Mutasa, Grace Mugabe also involved.
2.	Comoil (PVT) Ltd	Block D, Emerald Hill Office, Emerald Park, Harare, Zimbabwe. 2nd Floor, Travel Plaza, 29 Mazoe Street, Box CY22344, Causeway, Harare, Zimbabwe.	Owned by Saviour Kasukuwere.
3.	Divine Homes (PVT) Ltd	6 Hillside Shopping Centre, Harare, Zimbabwe; 31 Kensington Highlands, Harare, Zimbabwe; 12 Meredith Drive, Eastlea, Harare, Zimbabwe.	Chaired by David Chapfika.
4.	Famba Safaris	4 Wayhill Lane, Umwisdale, Harare, Zimbabwe; PO Box CH273, Chisipite, Harare, Zimbabwe.	Major shareholder is Webster Shamu.
5.	Jongwe Printing and Publishing Company (PVT) Ltd (a.k.a. Jongwe Printing and Publishing Co., a.k.a. Jongwe Printing and Publishing Company)	14 Austin Road, Coventry Road, Workington, PO Box 5988, Harare, Zimbabwe.	Publishing arm associated with the ZANU-PF faction of the Government.
6.	M & S Syndicate (PVT) Ltd	First Floor, Victory House, 88 Robert Mugabe Road, Harare, Zimbabwe; PO Box 1275, Harare, Zimbabwe.	Investment company associated with the ZNU-PF faction of the Government.
7.	OSLEG Ltd (a.k.a. Operation Sovereign Legitimacy)	Lonhoro House, Union Avenue, Harare, Zimbabwe.	Controlled by Zimbabwe army. Associated with the Ministry of Defence and the ZANU-PF faction of Government.
8.	Swift Investments (PVT) Ltd	730 Cowie Road, Tynwald, Harare, Zimbabwe; PO Box 3928, Harare, Zimbabwe.	Associated with the ZANU-PF faction of Government.
9.	Zidco Holdings (a.k.a. Zidco Holdings (PVT) Ltd)	PO Box 1275, Harare, Zimbabwe.	Financial holding company associated with the ZNU-PF faction of the Government.
10.	Zimbabwe Defence Industries	10th floor, Trustee House, 55 Samora Machel Avenue, PO Box 6597, Harare, Zimbabwe.	Associated with the Ministry of Defence and the ZANU-PF faction of Government.
11.	Zimbabwe Mining Development Corporation	90 Mutare Road, PO Box 2628, Harare, Zimbabwe.	Associated with the ZANU-PF faction of Government. ZMDC falls under the responsibility of ZANU-PF Minister of Mines and Mining Development.'

ANNEX II

‘ANNEX II

PERSONS REFERRED TO IN ARTICLE 10(3)

	Name (and any aliases)	Identifying information	Grounds for designation
1.	Chinamasa, Patrick Anthony	Minister of Justice, Legal and Parliamentary Affairs, born 25.1.1947.	ZANU-PF Member of Government.
2.	Mumbengegwi, Simbarashe Simbanenduku	Minister of Foreign Affairs, born 20.7.1945; Passport AD001086.	ZANU-PF Member of Government.’

COUNCIL DECISION 2012/98/CFSP**of 17 February 2012****amending Decision 2010/232/CFSP renewing restrictive measures against Burma/Myanmar**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) On 26 April 2010, the Council adopted Decision 2010/232/CFSP renewing restrictive measures against Burma/Myanmar ⁽¹⁾.
- (2) On 23 January 2012, the Council welcomed the remarkable programme of political reform undertaken by the Government and Parliament in Burma/Myanmar, together with its commitment to economic and social development. The Council noted the commitment by the Government to continue and complete these reforms.
- (3) The Council decided, as a first step, that the visa ban concerning the President, the vice-Presidents, cabinet members and the Speakers of the two Houses of Parliament of Burma/Myanmar should be suspended.
- (4) Decision 2010/232/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 15 of Decision 2010/232/CFSP is hereby replaced by the following:

"Article 15

1. This Decision shall enter into force on the date of its adoption.
2. This Decision shall apply until 30 April 2012.
3. The measures referred to in Article 9(1) and in Article 10(1) and (2), insofar as they apply to persons listed in Annex IV, shall be suspended until 30 April 2012.
4. The measures referred to in Article 9(1), insofar as they apply to persons listed in Annex V, shall be suspended until 30 April 2012."

Article 2

The Annex to this Decision shall be added as Annex V to Decision 2010/232/CFSP.

Article 3

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

Done at Brussels, 17 February 2012.

*For the Council**The President*

M. SAREEN

⁽¹⁾ OJ L 105, 27.4.2010, p. 22.

ANNEX

‘ANNEX V

List of persons referred to in Article 15(4)

FORMER STATE PEACE AND DEVELOPMENT COUNCIL (SPDC)

#	Name (and possible aliases)	Identifying information (function/title, date and place of birth, passport/id number, spouse or son/daughter of ...)	Sex (M/F)
1.	Thura Shwe Mann	Vice Chairman of the Union Solidarity and Development Party (USDP). Former SPDC Chief of Staff, Coordinator of Special Operations, d.o.b. 11.07.1947. Member of the Parliament (Lower House), Speaker of the Lower House.	M
2.	Khin Lay Thet	Wife of Thura Shwe Mann	F
3.	Aung Thet Mann a.k.a. Shwe Mann Ko Ko	Son of Thura Shwe Mann, Ayeya Shwe War (Wah) Company, 5, Pyay Rd, Hlaing Township, Yangon and Co-owner of RedLink Communications Co Ltd, No 20, Building B, Mya Yeik Nyo Royal Hotel, Pa-Le Rd, Bahan Township, Yangon, d.o.b. 19.06.1977	M
4.	Khin Hnin Thandar	Wife of Aung Thet Mann	F
5.	Toe Naing Mann	Son of Thura Shwe Mann, d.o.b. 29.06.1978 Owner of Global Net and Red Link Communications Co Ltd, No 20, Building B, Mya Yeik Nyo Royal Hotel, Pa-Le Rd, Bahan Township, Yangon, Internet Service Providers	M
6.	Zay Zin Latt	Wife of Toe Naing Mann, Daughter of Khin Shwe, d.o.b. 24.03.1981	F

GOVERNMENT

#	Name (and possible aliases)	Identifying information (inc. Ministry)	Sex (M/F)
1.	Thein Sein	President and Executive Head of the Republic of the Union of Myanmar. Former Prime Minister. Former member of the SPDC. Former Chairman of the Union Solidarity and Development Party (USDP), d.o.b. 20.04.1945, Patheingyi	M
2.	Khin Khin Win	Wife of Thein Sein	F
3.	Tin Aung Myint Oo	Vice-President of the Republic of the Union of Myanmar. Former SPDC Secretary 1. Former Vice Chairman of the Union Solidarity and Development Party (USDP), d.o.b. 29.05.1950	M
4.	Khin Saw Hnin	Wife of Tin Aung Myint Oo	F
5.	Captain Naing Lin Oo	Son of Tin Aung Myint Oo	M
6.	Hnin Yee Mon	Wife of Captain Naing Lin Oo	F
7.	Maj-Gen Hla Min	Minister for Defence. Former Chief of Bureau of Special Operations 3. Former South (Bago Division) Regional Commander, d.o.b. 26.01.1958	M
8.	Lt-Gen Ko Ko	Minister for Home Affairs. Former Chief of Bureau of Special Operations 3 (Pegu, Irrawaddy, Arakan), p.o.b. Mandalay, d.o.b. 10.3.1956	M
9.	Sao Nwan Khun Sum	Wife of LTL-Gen Ko Ko	F
10.	Thein Htaik a.k.a. Hteik a.k.a. Htike	Minister for Mines. Former Military Inspector General, d.o.b. 8/2/1952, p.o.b. Yangon	M

#	Name (and possible aliases)	Identifying information (inc. Ministry)	Sex (M/F)
11.	Thein Htay	Minister for Border Affairs & Industrial Development. Former Deputy Minister for Defence, p.o.b. Taunggyi, d.o.b. 07.09.1955	M
12.	Myint Myint Khine	Wife of Thein Htay	F
13.	Soe Maung	President's Office. Former Judge Advocate General, d.o.b. 20.12.1952, p.o.b. Yezagyo	M
14.	Nang Phyu Phyu Aye	Wife of Soe Maung	F
15.	Aye Myint	Minister for Science & Technology. Former Deputy Minister for Defence	M
16.	Soe Thein	Minister for Industry 2, p.o.b. Yangon, d.o.b. 07.09.1949	M
17.	Khin Aye Kyin a.k.a. Aye Aye	Wife of Soe Thein	F
18.	Yimon Aye	Daughter of Soe Thein, d.o.b. 12.07.1980	F
19.	Aye Chan	Son of Soe Thein, d.o.b. 23.09.1973	M
20.	Thida Aye	Daughter of Soe Thein, d.o.b. 23.03.1979	F
21.	Aung Min	Minister for Rail Transportation, p.o.b. Yangon, d.o.b. 20.11.1949	M
22.	Wai Wai Thar a.k.a. Wai Wai Tha	Wife of Aung Min	F
23.	Aye Min Aung	Daughter of Aung Min	F
24.	Htoo Char Aung	Son of Aung Min	M
25.	Khin Yi	Minister for Immigration and Population. Former DG Myanmar Police Force, d.o.b. 29.12.1952, p.o.b. Myaung Mya	M
26.	Khin May Soe	Wife of Khin Yi	F
27.	Myint Hlaing	Minister for Agriculture & Irrigation. Former Chief of Staff (Air Defence); p.o.b. Mogok, d.o.b. 13.08.1953	M
28.	Thura Myint Maung	Minister for Religious Affairs, p.o.b. Yesagyo, d.o.b. 19.01.1941	M
29.	Aung Kyaw Soe	Son of Thura Myint Maung	M
30.	Su Su Sandi	Wife of Aung Kyaw Soe	F
31.	Zin Myint Maung	Daughter of Thura Myint Maung	F
32.	Khin Maung Myint	Minister for Construction. Former Minister for Electric Power 2, p.o.b. Sagaing, d.o.b. 24.05.1951	M
33.	Win Win Nu	Wife of Khin Maung Myint	F
34.	Tin Naing Thein	Minister for National Planning and Economic Development and Minister for Livestock & Fisheries. Former Minister for Commerce, formerly Deputy Minister for Forestry	M
35.	Aye Aye	Wife of Tin Naing Thein	F
36.	Kyaw Swa Khaing	Minister for Industry 1. Former Deputy Minister for Industry 2	M

#	Name (and possible aliases)	Identifying information (inc. Ministry)	Sex (M/F)
37.	Khin Phyu Mar	Wife of Kyaw Swa Khaing	F
38.	Than Htay	Minister for Energy. Former Deputy Minister for Energy, p.o.b. Myanaung, d.o.b. 12.11.1954	M
39.	Soe Wut Yi	Wife of Than Htay	F
40.	Zaw Min	Minister for Electric Power (1), d.o.b. 30.10.1951, p.o.b. Bago	M
41.	Khin Mi Mi	Wife of Zaw Min	F
42.	Khin Maung Soe	Minister for Electric Power (2)	M
43.	Hla Tun	Minister for Finance & Revenue. Former Minister for Finance & Revenue, d.o.b. 11.07.1951, p.o.b. Yangon	M
44.	Khin Than Win	Wife of Hla Tun	F
45.	Thein Nyunt	President Office. Former Minister for Progress of Border Areas & National Races & Development Affairs, and Mayor of Nay Pyi Taw, p.o.b. Maubin, d.o.b. 08.10.1948	M
46.	Kyin Khaing a.k.a. Kyin Khine	Wife of Thein Nyunt	F
47.	(Wunna Kyaw Htin) Win Myint	Minister for Commerce. President of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) and owner of Shwe Nagar Min Co and owner of Zeya Shwe Myay Football Club, p.o.b. Ye Oo, d.o.b. 21.04.1954	M
48.	Kyaw Hsan	Minister for Information and Minister for Culture. Former member of the Union Solidarity and Development Party (USDP), p.o.b. Monywa, d.o.b.20.05.1948	M
49.	Kyi Kyi Win	Wife of Kyaw Hsan. Head of Information Department of Myanmar Women's Affairs Federation.	F
50.	Win Tun	Minister for Forestry	M
51.	Aung Kyi	Minister for Labour and Minister for Social Welfare, Relief and Resettlement. Former Minister for Employment/ Labour (appointed Minister for Relations on 08.10.2007, in charge of relations with Aung San Suu Kyi), p.o.b. Yangon, d.o.b. 01.11.1946	M
52.	Thet Thet Swe	Wife of Aung Kyi	F
53.	Ohn Myint	Minister for Cooperatives. Former Chief of Bureau of Special Operations 6	M
54.	Nu Nu Swe	Wife of Ohn Myint	F
55.	Thein Tun a.k.a. Thein Htun	Minister for Communications, Posts and Telegraphs	M
56.	Nyan Htun Aung	Minister for Transport	M

DEPUTY MINISTERS

#	Name (and possible aliases)	Identifying information (inc. Ministry)	Sex (M/F)
1.	Maj-Gen Kyaw Nyunt	Deputy Minister for Defence	M
2.	Col Aung Thaw	Deputy Minister for Defence	M

#	Name (and possible aliases)	Identifying information (inc. Ministry)	Sex (M/F)
3.	Maj-Gen Zaw Win	Deputy Minister for Border Affairs. Former Commander Lon Htein Battalion Base 3 Shwemyayar	M
4.	Maung Myint	Deputy Minister for Foreign Affairs, d.o.b. 21.05.1958, p.o.b. Mandalay	M
5.	Dr Khin Mya Win	d.o.b. 21.01.1956, wife of Maung Myint	F
6.	Win Than	Deputy Minister for Finance and Revenue	M
7.	Tint Lwin	Deputy Minister for Communications, Posts & Telegraphs	M
8.	Phone Swe	Deputy Minister for Social Welfare, Relief & Resettlement. Former Deputy Minister for Home Affairs.	M
9.	San San Wai	Wife of Brig-Gen Phone Swe	F
10.	Than Tun	Deputy Minister for Cooperatives	M
11.	Myint Thein	Deputy Minister for Labour. Former Supreme Court Judge	M
12.	Win Shein	Deputy Minister for Transport. Former Commander, Naval Training Headquarters	M
13.	Htay Aung	Deputy Minister for Hotels & Tourism	M
14.	Thein Aung	Deputy Minister for Industry 1	M
15.	Thura U Thaug Lwin	Deputy Minister for Rail Transportation	M
16.	Thant Shin	Deputy Minister for Rail Transportation	M
17.	Aye Kyu	Deputy Minister for Education	M
18.	Kyaw Kyaw Win	Deputy Minister for immigration & Population	M
19.	Aye Myint Kyu	Deputy Minister for Sports	M
20.	Han Sein	Deputy Minister for Myanma Industrial Development	M
21.	Chan Maung	Deputy Minister for Myanma Industrial Development	M
22.	Khin Maung Aye	Deputy Minister for Livestock & Fisheries	M
23.	Kyaw Zan Myint	Deputy Minister for Home Affairs	M

PERSONS WHO BENEFIT FROM GOVERNMENT ECONOMIC POLICIES AND OTHER PERSONS ASSOCIATED WITH THE REGIME

#	Name (and possible aliases)	identifying information (inc. company)	Sex (M/F)
1.	Khin Aung Myint	Former Minister for Culture. Member of the Parliament (Upper House), Speaker of the Upper House. Former member of the Union Solidarity and Development Party (USDP)	M
2.	Khin Phyoone	Wife of Khin Aung Myint	F

COMMISSION IMPLEMENTING DECISION

of 17 February 2012

on the detailed arrangements for the collection of premiums for excess CO₂ emissions from new light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council

(Text with EEA relevance)

(2012/99/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO₂ emissions from light-duty vehicles⁽¹⁾, and in particular Article 9(3) thereof,

Whereas:

- (1) Where the Commission, in accordance with Article 8(6) of Regulation (EU) No 510/2011, confirms, and in accordance with Article 10(2) of that Regulation, makes public, that a manufacturer has failed to comply with Article 4 of Regulation (EU) No 510/2011, it shall in accordance with Article 9(1) of that Regulation impose excess emissions premiums on that manufacturer, or in the case of a pool, on the pool manager.
- (2) It is necessary to adopt detailed arrangements for the collection of those excess emissions premiums.
- (3) Pursuant to Article 9(4) of Regulation (EU) No 510/2011, the amounts of excess emissions premiums are to be considered as revenue for the general budget of the European Union and are to be entered and booked in title 7 of the general budget. It is therefore appropriate to apply as collection method the rules for recovery of receivable amounts set out in Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽²⁾ and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁽³⁾.
- (4) For the purpose of establishing the amount receivable within the meaning of Article 71 of Regulation (EC, Euratom) No 1605/2002, it should be considered that,

in accordance with Article 8(4) of Regulation (EU) No 510/2011, the manufacturer is to be notified by the Commission of the provisional calculations of its average specific emissions of CO₂ in the preceding year, the specific emissions target and the difference between its average specific emissions and the specific emissions target for that year, and must in accordance with Article 8(5) of that Regulation be given the possibility to verify those calculations and to notify the Commission of any errors within three months from receipt of the provisional calculations.

- (5) In view of the exchange of views that takes place between the Commission and the manufacturer prior to the confirmation of the manufacturer's performance in accordance with Article 8(6) and Article 10 of Regulation (EU) No 510/2011 and the possibility given to the manufacturer for raising objections against the calculation of its performance, it should be considered that the Commission by confirming the performance has demonstrated that the debt exists and that the amount receivable is certain within the meaning of Article 71 of Regulation (EC, Euratom) No 1605/2002.
- (6) The excess emissions premium is to be calculated in accordance with the formulae laid down in Article 9(2) of Regulation (EU) No 510/2011 and is to be made public pursuant to Article 10 of that Regulation. The amount receivable should therefore be considered as a fixed amount that is due within the meaning of Article 71 of Regulation (EC, Euratom) No 1605/2002.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Commission shall proceed with the recovery of the excess emissions premium calculated in accordance with Article 9 of Regulation (EU) No 510/2011 by establishing a recovery order and by issuing a debit note addressed to the manufacturer concerned in accordance with the provisions set out in Articles 71 to 74 of Regulation (EC, Euratom) No 1605/2002 and Articles 78 to 89 of Regulation (EC, Euratom) No 2342/2002.

⁽¹⁾ OJ L 145, 31.5.2011, p. 1.

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

⁽³⁾ OJ L 357, 31.12.2002, p. 1.

Article 2

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

Done at Brussels, 17 February 2012.

For the Commission

The President

José Manuel BARROSO

COMMISSION DECISION

of 17 February 2012

on a method for the collection of premiums for excess CO₂ emissions from new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council

(Text with EEA relevance)

(2012/100/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles⁽¹⁾, and in particular Article 9(3) thereof,

Whereas:

- (1) Where the Commission, in accordance with the second subparagraph of Article 8(5) of Regulation (EC) No 443/2009, confirms and, in accordance with Article 10(2) of that Regulation, makes public, that a manufacturer has failed to comply with Article 4 of Regulation (EC) No 443/2009, it shall in accordance with Article 9(1) of that Regulation impose excess emissions premiums on that manufacturer, or in the case of a pool, on the pool manager.
- (2) It is necessary to establish the methods for collecting those excess emissions premiums.
- (3) Pursuant to Article 9(4) of Regulation (EC) No 443/2009, the amounts of excess emissions premiums are to be considered as revenue for the general budget of the European Union and are to be entered and booked in Title 7 of the general budget. It is therefore appropriate to apply as collection method the rules for recovery of receivable amounts set out in Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽²⁾ and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁽³⁾.
- (4) For the purpose of establishing the amount receivable within the meaning of Article 71 of Regulation (EC,

Euratom) No 1605/2002, it should be considered that, in accordance with Article 8(4) of Regulation (EC) No 443/2009, the manufacturer is to be notified by the Commission of the provisional calculations of its average specific emissions of CO₂ in the preceding year, the specific emissions target and the difference between its average specific emissions and the specific emissions target for that year, and must, in accordance with Article 8(5) of that Regulation, be given the possibility to verify those calculations and to notify the Commission of any errors within 3 months from receipt of the provisional calculations.

- (5) In view of the exchange of views that takes place between the Commission and the manufacturer prior to the confirmation of the manufacturer's performance in accordance with the second subparagraph of Article 8(5) and Article 10 of Regulation (EC) No 443/2009, and the possibility given to the manufacturer for raising objections against the calculation of its performance, it should be considered that the Commission by confirming the performance has demonstrated that the debt exists and that the amount receivable is certain within the meaning of Article 71 of Regulation (EC, Euratom) No 1605/2002.
- (6) The excess emissions premium is to be calculated in accordance with the formulae laid down in Article 9(2) of Regulation (EC) No 443/2009 and is to be made public pursuant to Article 10 of that Regulation. The amount receivable should therefore be considered as a fixed amount that is due within the meaning of Article 71 of Regulation (EC, Euratom) No 1605/2002.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Commission shall proceed with the recovery of the excess emissions premium calculated in accordance with Article 9 of Regulation (EC) No 443/2009 by establishing a recovery order and by issuing a debit note addressed to the manufacturer concerned in accordance with the provisions set out in Articles 71 to 74 of Regulation (EC, Euratom) No 1605/2002 and Articles 78 to 89 of Regulation (EC, Euratom) No 2342/2002.

⁽¹⁾ OJ L 140, 5.6.2009, p. 1.

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

⁽³⁾ OJ L 357, 31.12.2002, p. 1.

Article 2

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

Done at Brussels, 17 February 2012.

For the Commission

The President

José Manuel BARROSO

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