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**NOTE**

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from : The Presidency  
to : EIT Ad-hoc Working Party

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Subject : Proposal for a Regulation of the European Parliament and the Council -  
Establishing the European Institute of Technology  
– Presidency compromise text

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Delegations will find attached a revised Presidency compromise text for discussion by the EIT Ad-hoc Working Party.

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HAVE ADOPTED THIS REGULATION<sup>1</sup>:

*Article 1*

*Subject matter*

A European Institute of Technology (hereinafter referred to as "the EIT"), is **hereby** established.

*Article 2*

*Definitions*

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

1. **"Innovation"** means the process and the outcome of this process by which new ideas respond to societal or economic demand and generate new products, services, or business models that are successfully introduced in an existing market or that are able to create new markets.
2. **"Knowledge and Innovation Community" (KIC)** is **an autonomous partnership of universities, research organisations, companies and other stakeholders in the innovation process in the sense of a strategic network based on joint mid to long-term innovation planning** to achieve the **EIT challenges**, regardless of its precise legal form. The KIC is selected **and designated** by the EIT to carry out at the highest level integrated innovation, research and education activities in a specific field, **based on excellence**.
3. **"Participating State"** means **a Member State of the European Union, an Associated State or a third country which is party to an international agreement with the Community, under the terms or on the basis of which it makes a financial contribution to the EIT.**
4. **"Partner organisation"** means any organisation which is member of a KIC and may include in particular: universities, research organisations, public or private companies, financial institutions, regional and local authorities, foundations.
5. **"Research organisation"** means any public or private legal entity which undertakes research or technological development as one of its main objectives.

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<sup>1</sup> Changes to doc. 7859/1/07 REV 1 are **BOLD UNDERLINED**.

6. "University" means any type of higher education institution which, **according to national legislation or practice**, offers degrees **and diplomas at Master and Ph.D.** level, irrespective of its denomination in the national context.
7. **"Degrees and Diplomas" means degrees and diplomas awarded by participating universities resulting from higher education activities undertaken in a KIC.**

### Article 3

#### *Objective*

The objective of the EIT is to contribute to **sustainable European economic growth and** competitiveness by reinforcing the innovation capacity of Member States and the Community. It shall do this by involving and integrating innovation, research and education of the highest standards.

### Article 4

#### *The EIT Bodies*

1. The bodies of the EIT shall be:
  - (a) a Governing Board composed of high-level members experienced in **innovation**, business, research and **higher** education. It shall be responsible for steering **the activities of the EIT, for the selection, designation** and **evaluation of** the KICs, and for all other strategic decisions;
  - (b) an Executive Committee which shall oversee the running of the EIT and take such decisions as are necessary between meetings of the Governing Board;
  - (c) a Director who shall be responsible to the Governing Board for the administrative and financial management of the EIT and shall be the legal representative of the EIT;
  - (d) an Audit Committee which shall advise the Governing Board and the Director on financial and administrative management and control structures within the EIT, on the organisation of financial links with KICs, and on any other subject requested by the Governing Board.
2. **The Commission may appoint observers to take part in the meetings of the Audit Committee.**
3. **The detailed provisions regarding the EIT bodies are set out in the Statutes of the EIT, annexed to this Regulation.**

## Article 5

### *Tasks*

1. In order to achieve **its** objective, the EIT shall:
  - (a) **identify its priorities in accordance with the SIA referred to in Article (16);**
  - (b) raise awareness among potential partner organisations;
  - (c) select and designate KICs in the priority fields **in accordance with Article 7** and define their rights and obligations by agreement; provide them with appropriate support; apply appropriate quality control measures; continuously monitor and periodically evaluate their activities; and ensure an appropriate level of coordination between them;
  - (d) mobilise funds from public and private sources and use its resources in accordance with this Regulation. It shall in particular seek to raise **a significant and** increasing proportion of its budget from private sources;
  - e) **promote the dissemination of good practices for the integration of the knowledge triangle in order to develop a common innovation culture;**
  - f) **increase its attractiveness in order to become a "global player" for excellence in innovation, higher education and research;**
  - g) **initiate and support the establishment of a Foundation (hereinafter referred to as "the EIT Foundation") with the specific objective of promoting and supporting the activities of the EIT;**
  - h) **ensure the complementarity and synergy between the EIT activities and other Community programmes.**

## Article 6

### *Knowledge and Innovation Communities*

- 1.** Knowledge Innovation Communities shall undertake in particular:
  - (a) innovation activities and investments **with European added value,** fully integrating the research and education dimensions **to achieve a critical mass,** stimulating the dissemination and exploitation of results;
  - (b) **cutting-edge and innovation-driven** research in **areas** of key economic and societal interest **and drawing on the outcomes of European and national research,** with **the** potential **to strengthen Europe's competitiveness on an international level;**

- (c) education and training activities at master and doctoral level, **which promote** the development of innovation related skills and the improvement of managerial and entrepreneurial skills;
  - (d) dissemination of best practices, in the innovation sector with a focus on the development of co-operation between **higher** education, research, **and** business **including the finance sector**.
2. **The KICs shall have substantial overall autonomy to define their internal organization as well as their precise agenda and working methods.**
  3. **The relation between the EIT and the KIC shall be based on contractual agreements between separate legal entities.**
  4. **A KIC may include partner organisations from participating States which can make a positive contribution to its objectives.**

*Article 7 (new)*

*Selection of Knowledge and Innovation Communities*

1. A **partnership shall** be selected by the **EIT** to become a KIC on the basis of a competitive, open and transparent process. **Detailed specifications and conditions based on the principles of excellence and innovation relevance shall be published by the EIT, and external and independent experts shall be involved in the selection process.**
2. The selection of **a KIC** shall take particular account of:
  - (a) **the basis of joint mid to long-term, sustainable and self-supporting financing of strategic planning for innovation, including an indicative financial plan, in particular showing a substantial and progressively increasing contribution from the private sector, industry and services;**
  - (b) the current and potential innovation capacity within the **partnership** as well as its excellence in innovation, **higher** education and research;
  - (c) **after the adoption of the SIA,** its capacity to achieve the **EIT long-term challenges** set **out in the SIA in accordance with Article 16;**
  - (d) **the participation of organisations active in the triangle of research, education and innovation. In particular universities and businesses shall be part of each KIC;**

- (e) a demonstration of innovation potential, including a **strategy** for the management of intellectual property appropriate to the sector concerned and consistent with the EIT principles and guidelines for the management of intellectual property;
  - (f) **measures to support the creation of start-ups, spin-offs and SMEs (incubator aspect).**
3. **At least three partner organisations must participate to form a KIC, each of which must be established in a Member State or Associated country, and no two of which may be established in the same Member State or Associated country. All three legal entities must be independent of each other.**

*Article 8*

*Degrees and diplomas*

1. **Degrees and Diplomas related to education activities referred to in Article 6 (1) (c) shall be awarded by participating universities according to national rules and accreditation procedures.** The agreement between the EIT and the KICs shall provide that **these** degrees and diplomas **may also** be **labelled** EIT-**d**egrees and diplomas.
2. The EIT shall encourage **participating universities** to:
- (a) award joint **or multiple** degrees and diplomas, reflecting the integrated nature of the KICs. However, these may also be awarded by a single institution;
  - (b) **take into account:**
    - i. Community action undertaken in accordance with Articles 149 and 150 of the Treaty;**
    - ii. the European Higher Education Area (e.g. the agreements reached in the Bologna Process).**

## *Article 9*

### *Independence of the EIT and consistency with Community, Member States or Intergovernmental action*

1. The EIT shall carry out its activities independently of national authorities and external pressures.
2. The activity of the EIT shall be consistent with other action **and instruments to be implemented** at Community level, in particular in the fields of innovation, research and education.
3. The EIT shall also take appropriate account of policies and initiatives at **regional**, national and intergovernmental levels **in order to avoid duplication or to make use of best practice, concepts and existing resources.**

## *Article 10*

### *Management of Intellectual Property*

1. The **EIT** shall **adopt** guidelines for the management of intellectual property **based on, inter alia, the rules for participation in the FP 7 (EC) No 1906/2006 (OJ L 391, 2007).**
2. **On the basis of these guidelines, the partner organisations of each KIC shall conclude an agreement on the management and use of intellectual property.**

## *Article 11*

### *Legal Status*

1. The EIT shall **be a body of the Community and shall** have legal personality. In each of the Member States, it shall **enjoy** the widest possible legal **capacity** accorded to legal persons under national legislation. In particular, it may acquire or dispose of **movable and immovable property** and be a party to legal proceedings.
2. The Protocol on the Privileges and Immunities of the European Communities shall apply to the EIT.

## *Article 12*

### *Liability*

1. The EIT shall be solely responsible for meeting its obligations.
2. The contractual liability of the EIT shall be governed by the relevant contractual provisions and the law applicable to the contract in question.

**The Court of Justice of the European Communities shall have jurisdiction pursuant to any arbitration clause contained in a contract concluded by the EIT.**

3. In the case of non-contractual liability, the EIT shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or its servants in the performance of their duties.

The Court of Justice of the European Communities shall have jurisdiction in any dispute relating to compensation for such damage.

4. Any payment by the EIT for covering the liability referred to in paragraphs 2 and 3 and the costs and expenses incurred in connection therewith shall be considered expenditure of the EIT and shall be covered by the resources of the EIT.

- 5. The Court of Justice of the European Communities shall have jurisdiction in actions brought against the EIT under the conditions provided for in Articles 230 and 232 of the Treaty.**

## *Article 13*

### *Transparency and access to documents*

1. The EIT shall ensure that its activities are conducted with a high level of transparency.
2. The EIT shall make public its rules of procedure within 6 months after the appointment of its Governing Board.
- 3. The EIT shall make public without delay its rolling triennial working programme as well as its annual activity report.**
4. Without prejudice to paragraphs **5** and **6**, the EIT shall not divulge to third parties confidential information it has received for which confidential treatment has been requested and is justified.



- 5.** The members of the EIT bodies shall be subject to the confidentiality requirement referred to in Article 287 of the Treaty.
- The information gathered by the EIT in accordance with the present Regulation shall be subject to Regulation (EC) No 45/2001<sup>2</sup>.
- 6.** Regulation (EC) N° 1049/2001<sup>3</sup> shall apply to the documents held by the EIT. The Governing Board shall adopt practical arrangements for applying the said regulation no later than six months after the EIT has been set up.

#### *Article 14*

##### *Resources*

1. The EIT shall be financed **in particular** through **contributions from the budget of the European Union.**
- 2. The KICs shall be financed through:**
- (a) **substantial** contributions from business or private organisations;
  - (b) contributions from the **budget of the** European Union;
  - (c) **voluntary** contributions from **participating States** or public authorities within them;
  - (d) bequests, donations and contributions from individuals, institutions foundations or any other national bodies;
  - (e) revenue generated by the EIT's own activities and outcomes or capital endowments, including those managed by the EIT Foundation or from Intellectual Property Rights;
  - (f) contributions from international bodies or institutions;
- These may include contributions in kind.
- 3.** The **KICs** may apply for Community assistance, in particular in the framework of Community programmes and funds, **in accordance with their respective rules.** In that case, such assistance shall not be attributed for activities already funded through the Community budget.

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<sup>2</sup> OJ L 8, 12.01.2001, p. 1.

<sup>3</sup> OJ L 145, 31.05.2001, p. 43.

*Article 15*

*Programming and Accountability*

1. The EIT shall adopt:
  - (a) **an annual report by 30 June each year. The report shall outline the activities conducted by the EIT during the preceding year and assess the results with respect to the objectives and timetable set, the risks associated with the activities carried out, the use of resources and the general operation of the EIT;**
  - (b) a rolling triennial work programme, containing a statement of its major priorities and planned initiatives, **including an estimate of financing needs and sources.** The draft work programme shall be submitted by the Governing Board to the Commission, **the European Parliament and the Council for information.**

*Article 16 (new)*

*Strategic Innovation Agenda*

1. The EIT shall draw up a Strategic Innovation Agenda (**hereinafter referred to as "the SIA"**).  
**The Strategic Innovation Agenda shall define long-term strategic areas for the EIT in the fields of key potential economic and societal interest which are likely to generate the best innovation added value by complementing existing policies and instruments with a view to fostering higher education, research and innovation regarding the priorities identified at EU level.**  
**The SIA shall take into account the results of the evaluation of the work of the KICs.**
2. **The SIA shall include an estimate of financial needs and sources in view of the long-term development and funding of the EIT.**
3. **It shall have a timeframe of 7 to 10 years in line with the planning period of the Financial Perspectives. It shall be submitted by the Commission on the basis of the draft provided by the EIT according to paragraph 1.**
4. **The European Parliament and the Council shall, acting on the proposal from the Commission, adopt the SIA in accordance with the Treaty.**

*Article 17*

**Monitoring and evaluation of the EIT**

1. The EIT shall ensure that its activities, including those managed through KICs, shall be subject to continuous and systematic monitoring and periodic independent evaluation, to ensure both the highest quality of outcome, scientific excellence and the most efficient use of resources. The outcomes of the evaluation shall be made public.
2. **No later than 2011** and every **five** years after **the entry into force of a new Financial Perspective**, the Commission shall **carry out** an evaluation of the EIT. This shall be based on an independent external evaluation, and shall examine how the EIT fulfils its mission. It shall cover all activities of the EIT and the KICs and shall examine the effectiveness, sustainability, efficiency and relevance of the activities pursued and their relation with the Community policies. It shall take into account the views of stakeholders, at both European and national level.
3. **The Commission shall forward the results of the evaluation, together with its own opinion on the implementation of this Regulation as well as appropriate proposals for the amendment of this Regulation, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.**
4. The Governing Board shall take due account of the findings of evaluations in the programmes and operations of the EIT.

*Article 18 (new)*

**Transitional Provisions**

1. **Within a period of 24 months from the date of adoption of this Regulation, the EIT shall select up to three KICs in cooperation with the Commission, [in the field of renewable energy and climate change]; in accordance with the criteria and procedures set out in Article 7.**

2. **The Commission shall submit the proposal for the First Strategic Innovation Agenda, on the basis of the draft provided by the EIT, to the European Parliament and the Council at the latest by 2012. This First SIA shall have a timeframe of 7 to 10 years. It shall include the overall strategy and main objectives for the operations during that period, as well as detailed specifications and terms of reference on the operation of the EIT and the modalities for cooperation between the Governing Board and the KICs (hereinafter referred to as "the Framework Conditions"). In addition, an estimate of the financial needs and sources for the future operation of the EIT and the EIT's rules and financial regulations has to be provided.**
3. **Only after the adoption of the First SIA in accordance with Art. 16 (4) may the Governing Board select additional KICs pursuant to the provisions of Articles 6 and 7.**

#### Article **19**

##### *Budgetary Commitments*

The indicative financial envelope for the implementation of this Regulation during the period of 6 years as from 1 January 2008 is set at EUR **308.7** million. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

#### Article **20**

##### *Preparation and adoption of the annual budget*

1. The expenditure of the EIT shall include the staff, administrative, infrastructure and operational expenses.
2. The financial year shall correspond to the calendar year.
3. The Director shall draw up an estimate of the revenue and expenditure of the EIT for the following financial year and shall forward it to the Governing Board.
4. Revenue and expenditure shall be in balance.
5. The Governing Board shall adopt the draft estimate accompanied by the preliminary rolling triennial work programme, and forward them by 31 March to the Commission.
6. On the basis of the estimate, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the amount of the subsidy to be charged to the general budget.

7. The budgetary authority shall authorise the appropriations for the subsidy to the EIT.
8. The Governing Board adopts the EIT budget, which shall become final following the final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.
9. Any modification to the budget shall **be subject to a decision of the budgetary authority**.

#### *Article 21*

##### *Implementation and control of the budget*

1. The EIT shall adopt its financial rules in accordance with Article 185(1) of Council Regulation 1605/2002. Due account shall be given to the need for adequate operational flexibility in order to enable the EIT to achieve its objectives and attract and retain private sector partners.
2. The Director shall implement the budget of the EIT.
3. The accounts of the EIT shall be consolidated with the Commission's accounts.
4. Upon a recommendation from the Council, the European Parliament shall, before 30 April of the year  $n + 2$ , give a discharge for the year  $n$ , to the Director in respect of the implementation of the EIT budget, and to the Governing Board in respect to the Foundation.

#### *Article 22*

##### *Protection of the financial interests of the Community*

1. With a view to combating fraud, corruption and other illegal acts, Regulation (EC) No 1073/1999<sup>4</sup>) shall apply to the EIT in its entirety.
2. The EIT shall accede to the Inter-institutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF) (<sup>5</sup>). The Governing Board shall formalise this accession and adopt the necessary measures to help OLAF carry out internal investigations.

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<sup>4</sup> OJ L 136, 31.05.1999, p. 1.

<sup>5</sup> OJ L 136, 31.05.1999, p. 15.

3. All decisions adopted and contracts concluded by the EIT, shall provide explicitly that OLAF and the Court of Auditors may carry out on-the-spot inspections of the documents of all contractors and sub-contractors which have received Community funds, including at the premises of the final beneficiaries.
4. The provisions set out in paragraphs (1), (2) and (3) shall apply, mutatis mutandis, to the EIT Foundation.

*Article 23*

*Statutes*

The statutes of the EIT, as set out in the Annex, are adopted.

*Article 24*

*Entry into Force*

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

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

Done at Brussels,

*For the Council*

*The President*

*For the European Parliament*

*The President*

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