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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	11 January 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	ANNEX to the Proposal for a Council Regulation on establishing the European High Performance Computing Joint Undertaking

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Delegations will find attached document COM(2018) 8 final - Annex 1.

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Encl.: COM(2018) 8 final - Annex 1



Brussels, 11.1.2018  
COM(2018) 8 final

ANNEX 1

**ANNEX**

**to the**

**Proposal for a Council Regulation**

**on establishing the European High Performance Computing Joint Undertaking**

{SWD(2018) 5 final} - {SWD(2018) 6 final}

# **STATUTES OF THE EuroHPC JOINT UNDERTAKING**

## Article 1

### **Tasks**

The Joint Undertaking shall carry out the following tasks:

- (a) mobilise public and private sector funds for financing the activities of the Joint Undertaking;
- (b) acquire at least two pre-exascale supercomputers that rank amongst the top ten world-wide, funded by the Union's budget stemming from the Horizon 2020, Connecting Europe Facility Programmes and contributions from the Participating States, in compliance with Joint Undertaking's rules;
- (c) initiate and manage the procedure for the acquisition of the pre-exascale supercomputers, evaluate the offers received, award of funding within the limits of available funds, monitor the implementation of the contract and manage the contracts;
- (d) select the hosting entity of the pre-exascale supercomputers, in accordance with its financial rules referred to in Article 11 of this Regulation;
- (e) establish a hosting agreement in accordance with its financial rules referred to in Article 11 of this Regulation with the hosting entity for the operation and maintenance of the pre-exascale supercomputers and monitor the contractual compliance with the hosting agreement, including the acceptance test of the acquired supercomputers;
- (f) provide financial support to the acquisition of at least two peta-scale supercomputers;
- (g) define general and specific access conditions to the supercomputers and monitor access to the supercomputers;
- (h) provide financial support, mainly in the form of grants, focusing on developing the next generation of key High Performance Computing technologies and systems towards exascale addressing the whole European technology spectrum from low-power microprocessors and related technologies to software, algorithms, programming models and tools, to novel architectures and their system integration through a co-design approach.
- (i) provide financial support, mainly in the form of grants, focusing on applications, outreach activities, awareness raising actions and professional development activities for attracting human resources to High Performance Computing, as well as increasing skills and engineering know-how of the ecosystem;
- (j) initiate open calls for proposals and award funding to research, development and innovation actions within the limits of available funds;
- (k) monitor the implementation of the actions and manage grant agreements;
- (l) ensure sustainable management of the Joint Undertaking;
- (m) monitor overall progress towards achieving the objectives of the Joint Undertaking;

- (n) develop close cooperation and ensure coordination with Union and national activities, bodies and stakeholders, creating synergies and improving exploitation of research and innovation results in the area of high performance computing;
- (o) define the multiannual strategic plan, draw up and implement the corresponding work plans for their execution and make any necessary adjustments to the multiannual strategic plan;
- (p) engage in information, communication, exploitation and dissemination activities by applying *mutatis mutandis* Article 28 of Regulation (EU) No 1291/2013, including making the detailed information on results from calls for proposals available and accessible in a common Horizon 2020 e-database;
- (q) any other task needed to achieve the objectives set out in Article 3 of this Regulation.

## Article 2

### Members

- (1) The members of the Joint Undertaking shall be:
  - (a) the Union, represented by the Commission;
  - (b) Belgium, Bulgaria, Croatia, France, Germany, Greece, Italy, Luxembourg, The Netherlands, Portugal, , Slovenia, Spain, and Switzerland;
  - (c) upon acceptance of these Statutes by means of a letter of endorsement, the European Technology Platform for High Performance Computing (ETP4HPC) Association registered under Dutch law with its registered office in Amsterdam (The Netherlands), the Big Data Value Association (BDVA) registered under Belgian law with its registered office in Brussels (Belgium).
- (2) Each Participating State shall appoint its representatives in the bodies of the Joint Undertaking and shall designate the national entity or entities responsible for fulfilling its obligations with respect to the activities of the Joint Undertaking.

## Article 3

### Changes to membership

- (1) Provided that they contribute to the funding referred to in Article 15 to achieve the objectives of the Joint Undertaking, Member States or Associated Countries that are not listed in point (b) of Article 2(1) shall become members of the Joint Undertaking upon notification to the Governing Board of their written acceptance of these Statutes and of any other provisions governing the functioning of the Joint Undertaking.
- (2) Provided that they contribute to the funding referred to in Article 15 to achieve the objectives of the Joint Undertaking set out in Article 3 of this Regulation, and accept the Statutes of the Joint Undertaking, any legal entity established in those countries that directly or indirectly supports research and innovation in a Member State or in a country associated to Horizon 2020 may apply to become a member of the Joint Undertaking.
- (3) Any application for membership of the Joint Undertaking made in accordance with paragraph 2 shall be addressed to the Governing Board. The Governing Board shall assess the application, taking into account the relevance and the potential added

value of the applicant as regards the achievement of the objectives of the Joint Undertaking and shall decide on the application.

- (4) Any member may terminate its membership of the Joint Undertaking. Such termination shall become effective and irrevocable six months after notification to the other members. As from the date of termination, the former member shall be discharged from any obligations other than those approved or incurred by the Joint Undertaking prior to the notification of termination of the membership.
- (5) Membership of the Joint Undertaking may not be transferred to a third party without the prior agreement of the Governing Board.
- (6) Upon any change to membership pursuant to this Article, the Joint Undertaking shall immediately publish on its website an updated list of members together with the date of such change.

#### Article 4

##### **Bodies of the Joint Undertaking**

The bodies of the Joint Undertaking shall be:

- (a) the Governing Board;
- (b) the Executive Director;
- (c) the Industrial and Scientific Advisory Board composed of the Research and Innovation Advisory Group and the Infrastructure Advisory Group.

#### Article 5

##### **Composition of the Governing Board**

The Governing Board shall be composed of representatives of the Participating States and the Commission.

Each Participating State and the Commission shall appoint one representative who shall hold the voting rights of the Participating State and of the Commission, respectively, in the Governing Board.

#### Article 6

##### **Functioning of the Governing Board**

- (1) The Union shall hold 50 % of the voting rights. The voting rights of the Union shall be indivisible.

For the general administrative tasks referred to in Article 7(3), the voting rights of the Participating States shall be in proportion to their actual financial commitment to the activities of the Joint Undertaking over the duration of the Joint Undertaking.

- (2) For the tasks related to the implementation of the actions of the Joint Undertaking, as defined in Article 7(4), the voting rights of the Participating States shall be in proportion to their actual contributions to the activities of the Joint Undertaking over the duration of the Joint Undertaking.

Voting rights of the Participating States shall be calculated on an annual basis, taking into consideration the contributions made since their accession to the Joint Undertaking. For the calculation of the voting rights the contributions of the Participating States to the operational costs of the supercomputers acquired by the Joint Undertaking and for the contributions of the Participating States to the

acquisition costs of the petascale supercomputers shall only be taken into account if they have been certified ex-ante by an independent auditor.

The Participating States of the Joint Undertaking shall only have the right to vote on the issues related to the acquisition of a pre-exascale supercomputer by the Joint Undertaking on the condition that they provide a financial or in-kind contribution to the acquisition or operation of the pre-exascale supercomputer. In particular the Participating State shall have the right to vote on the work plan with corresponding expenditure estimates for the procurement, selection of hosting entity, the award of the contracts, the allocation of the access rights, and the transfer of ownership to the hosting entity.

The Participating States of the Joint Undertaking shall only have the right to vote on the issues related to the indirect actions implemented by the Joint Undertaking if they provide a financial contribution to the Joint Undertaking for the implementation of the corresponding parts of the workplan. In particular, in this case the Participating State shall have the right to vote on the work plan with corresponding expenditure estimates for the indirect actions, and the list of indirect actions selected for funding.

- (3) The members of the Governing Board shall make every effort to achieve consensus. Failing consensus, the Governing Board shall take its decisions by a majority of at least 75% of all votes, including the votes of the members who are absent.
- (4) Any member of the Joint Undertaking other than the Union that fails to meet its commitments concerning the contributions referred to in Article 5 of the Regulation within six months of the time-limit as defined by the Governing Board shall be disqualified from voting in the Governing Board and shall have no access to the pre-exascale supercomputers owned by the Joint Undertaking until such time as its obligations have been met.
- (5) The Governing Board shall elect a chair for a period of two years. The mandate of the chairperson shall be extended only once, following a decision by the Governing Board.
- (6) The Governing Board shall hold its ordinary meetings at least twice a year. It may hold extraordinary meetings at the request of the Commission, of a majority of the representatives of the Participating States, at the request of the chair, or at the request of the Executive Director in accordance with Article 15(5). The meetings of the Governing Board shall be convened by its chair and shall usually take place at the seat of the Joint Undertaking.

The quorum of the Governing Board shall be constituted by the Commission and at least three Participating States' representatives.

The Executive Director shall take part in the deliberations, unless decided otherwise by the Governing Board, but shall have no voting rights. The Governing Board may invite, on a case-by-case basis, other persons to attend its meetings as observers.

Any Member State or Associated Country that is not a member of the Joint Undertaking may participate in the Governing Board as an observer. Observers shall receive all relevant documents and may give advice on any decision taken by the Governing Board. All such observers shall be bound by the confidentiality rules applying to the Governing Board members.

- (7) The representatives of the members shall not be personally liable for actions carried out in their capacity as representatives on the Governing Board.

- (8) The Governing Board shall adopt its own rules of procedure. These rules shall include specific procedures for identifying and avoiding conflicts of interest and ensure the confidentiality of any sensitive information.
- (9) The chair of the Research and Innovation Advisory Group, as well as the chair of the Infrastructure Advisory Group, shall have the right, whenever issues falling within its tasks are discussed, to attend meetings of the Governing Board as an observer and take part in its deliberations, but shall have no voting rights.

#### Article 7

##### **Tasks of the Governing Board**

- (1) The Governing Board shall have overall responsibility for the strategic orientation and the operations of the Joint Undertaking and shall supervise the implementation of its activities and shall ensure that the principles of fairness and transparency are properly applied in the allocation of public funding to participants in indirect actions.
- (2) The Commission, in its role in the Governing Board, shall seek to ensure coordination between the activities of the Joint Undertaking and the relevant activities of Union Funding Programmes with a view to promoting synergies when identifying priorities covered by collaborative research.
- (3) The Governing Board shall, in particular, carry out the following general administrative tasks of the Joint Undertaking:
  - (a) assess, accept or reject applications for a membership in accordance with Article 3(2) of these Statutes;
  - (b) decide on the termination of membership in the Joint Undertaking of any member that does not fulfil its obligations;
  - (c) adopt the financial rules of the Joint Undertaking in accordance with Article 11 of this Regulation;
  - (d) adopt the annual budget of the Joint Undertaking, including the corresponding staff establishment plan indicating the number of temporary posts by function group and by grade, the number of contract staff and seconded national experts expressed in full-time equivalents;
  - (e) exercise the appointing authority powers with respect to staff, in accordance with Article 13(2) of this Regulation;
  - (f) appoint, dismiss, extend the term of office of, provide guidance to and monitor the performance of the Executive Director;
  - (g) approve the organisational structure of the Programme Office upon recommendation of the Executive Director;
  - (h) adopt the multiannual strategic plan referred to in Article 20(1);
  - (i) approve the annual activity report, including the corresponding expenditure referred to in Article 21(1);
  - (j) arrange as appropriate, for the establishment of an internal audit capability of the Joint Undertaking upon recommendation by the Executive Director;
  - (k) establish the Joint Undertaking's communications policy upon recommendation by the Executive Director;

- (l) where appropriate, establish implementing rules to the Staff Regulations and the Conditions of Employment in accordance with Article 13(3) of this Regulation;
  - (m) where appropriate, lay down rules on the secondment of national experts to the Joint Undertaking and on the use of trainees in accordance with Article 14(2) of this Regulation;
  - (n) where appropriate, set up advisory groups in addition to the bodies of the Joint Undertaking;
  - (o) where appropriate, submit to the Commission a request to amend this Regulation proposed by a member of the Joint Undertaking;
  - (p) approve the model hosting agreement to be annexed to the documents for the procedure for the selection of the hosting entity;
  - (q) be responsible for any task that is not specifically allocated to a particular body of the Joint Undertaking; it may assign such tasks to any body of the Joint Undertaking.
- (4) The Governing Board shall, in particular, carry out the following tasks related to the operational activities of the actions of the Joint Undertaking:
- (a) adopt the work plan and the corresponding expenditure estimates referred to in Article 20(2);
  - (b) approve the launch of calls for proposals, in accordance with the work plan;
  - (c) approve the list of actions selected for funding on the basis of the ranking list produced by a panel of independent experts;
  - (d) approve the launch of calls for tenders, in accordance with the work plan;
  - (e) approve the tenders selected for funding
  - (f) define general and specific access conditions on how the users from academia, the public sector and industry can access the Joint Undertaking's infrastructure, including the pricing for paying services;
  - (g) define the access rights to the Union's share of access time of the peta-scale supercomputers for which the Joint Undertaking provides a financial contribution;
  - (h) define the access rights to the Unions share of access time of the pre-exascale supercomputers;
  - (i) establish the level of the fee of the Commercial services referred to in Article 12 of this Regulation, and decide on the allocation of the access time for these paying services;
  - (j) decide annually on the use of any revenue generated by the fees for commercial services referred to in Article 12 of this Regulation;
  - (k) decide on the possible transfer of ownership of the pre-exascale supercomputers to a hosting entity, in accordance with Article 8(2) of the Regulation.

#### Article 8



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

- (1) The Executive Director shall be appointed by the Governing Board from a list of candidates proposed by the Commission following an open and transparent selection procedure. The Commission may associate the representation from the other members of the Joint Undertaking in the selection procedure, as appropriate.

In particular, an appropriate representation from the other members of the Joint Undertaking may be ensured at the pre-selection stage of the selection procedure. For that purpose, the Participating States shall appoint by common accord a representative as well as an observer on behalf of the Governing Board.

- (2) The Executive Director shall be a member of staff and shall be engaged as a temporary agent of the Joint Undertaking under point (a) of Article 2 of the Conditions of Employment.

For the purpose of concluding the contract of the Executive Director, the Joint Undertaking shall be represented by the chair of the Governing Board.

- (3) The term of office of the Executive Director shall be three years. By the end of that period, the Commission, associating the Participating States and the Private Members as appropriate, shall undertake an assessment of the performance of the Executive Director and the Joint Undertaking's future tasks and challenges.
- (4) The Governing Board, acting on a proposal from the Commission which takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for a period of no more than four years.
- (5) An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.
- (6) The Executive Director may be dismissed only upon a decision of the Governing Board acting on a proposal from the Commission associating the Participating States and the Private Members as appropriate.

### Article 9

#### **Tasks of the Executive Director**

- (1) The Executive Director shall be the chief executive responsible for the day-to-day management of the Joint Undertaking in accordance with the decisions of the Governing Board.
- (2) The Executive Director shall be the legal representative of the Joint Undertaking. The Executive Director shall be accountable to the Governing Board and perform his or her duties with complete independence within the powers assigned to him or her.
- (3) The Executive Director shall implement the budget of the Joint Undertaking.
- (4) The Executive Director shall, in particular, carry out the following tasks in an independent manner:
  - (a) consolidate and submit for adoption to the Governing Board the draft multiannual strategic plan composed of the multiannual strategic research and innovation agenda as proposed by the Industrial and Scientific Advisory Board and the multiannual financial perspectives from the Participating States and the Commission;

- (b) prepare and submit for adoption to the Governing Board the draft annual budget, including the corresponding staff establishment plan indicating the number of temporary posts in each grade and function group and the number of contract staff and seconded national experts expressed in full-time equivalents;
  - (c) prepare and submit for adoption to the Governing Board the draft annual work plan including the scope of the calls for proposals and call for tenders needed to implement the research and innovation activities plan and procurement plans as proposed by the Industrial and Scientific Advisory Board and the corresponding expenditure estimates as proposed by the Participating States and the Commission;
  - (d) submit for opinion to the Governing Board the annual accounts;
  - (e) prepare and submit for approval to the Governing Board the annual activity report, including the information on corresponding expenditure;
  - (f) sign individual grant agreements, decisions and contracts;
  - (g) sign procurement contracts;
  - (h) monitor the operations of the peta-scale and pre-exascale supercomputers owned or funded by the Joint Undertaking (including the allocation of access times, compliance with the access rights for academic and industrial users and quality of provided services);
  - (i) implement the Joint Undertaking's communication policy;
  - (j) organise, direct and supervise the operations and the staff of the Joint Undertaking within the limits of the delegation by the Governing Board as provided for in Article 13(2) of this Regulation;
  - (k) establish and ensure the functioning of an effective and efficient internal control system and report any significant change to it to the Governing Board;
  - (l) ensure that risk assessment and risk management are performed;
  - (m) take any other measures needed to assess the progress of the Joint Undertaking towards its objectives as set out in Article 3 of this Regulation;
  - (n) perform any other tasks entrusted or delegated to the Executive Director by the Governing Board.
- (5) The Executive Director shall set up a Programme Office for the execution, under his or her responsibility, of all support tasks arising from this Regulation. The Programme Office shall be composed of the staff of the Joint Undertaking and shall in particular carry out the following tasks:
- (a) provide support in establishing and managing an appropriate accounting system in accordance with the financial rules referred to in Article 11 of this Regulation;
  - (b) manage the calls for proposals as provided for in the work plan and administer the grant agreements and decisions;
  - (c) manage the calls for tender as provided for in the work plan and administer the contracts;
  - (d) manage the process for the selection of the hosting entity and administer the decisions;

- (e) provide the members and the other bodies of the Joint Undertaking with all relevant information and support necessary for them to perform their duties as well as responding to their specific requests;
- (f) act as the secretariat of the bodies of the Joint Undertaking and provide support to advisory groups set up by the Governing Board.

#### Article 10

##### **Composition of the Industrial and Scientific Advisory Board**

- (1) The Industrial and Scientific Advisory Board shall be composed of a Research and Innovation Advisory Group and an Infrastructure Advisory Group.
- (2) The Research and Innovation Advisory Group shall consist of no more than twelve members, whereof no more than six shall be appointed by the Private Members and no more than six shall be appointed by the Governing Board. The Governing Board shall establish the specific criteria and selection process for the members it appoints.
- (3) The Infrastructure Advisory Group shall consist of no more than twelve members. The Governing Board shall establish the specific criteria and selection process and shall appoint its members. Only people without a conflict of interest are eligible to become members.

#### Article 11

##### **Functioning of the Research and Innovation Advisory Group**

- (1) The Research and Innovation Advisory Group shall meet at least twice a year.
- (2) The Research and Innovation Advisory Group may appoint working groups where necessary under the overall coordination of one or more members.
- (3) The Research and Innovation Advisory Group shall elect its chair.
- (4) The Research and Innovation Advisory Group shall adopt its rules of procedure, including the nomination of the constituent entities that shall represent the Advisory Group and the duration of their nomination.

#### Article 12

##### **Functioning of the Infrastructure Advisory Group**

- (1) The Infrastructure Advisory Group shall meet at least twice a year.
- (2) The Infrastructure Advisory Group may appoint working groups where necessary under the overall coordination of one or more members.
- (3) The Infrastructure Advisory Group shall elect its chair.
- (4) The Infrastructure Advisory Group shall adopt its rules of procedure, including the nomination of the constituent entities that shall represent the Advisory Group and the duration of their nomination.

#### Article 13

##### **Tasks of the Research and Innovation Advisory Group**

The Research and Innovation Advisory Group shall:

- (a) draw up and regularly update the draft multiannual strategic research and innovation agenda referred to in Article 20 for achieving the objectives of the Joint Undertaking set out in Article 3 of this Regulation. This draft multiannual

strategic research and innovation agenda should identify research and innovation priorities for the development and adoption of technologies and key competences for high performance computing across different application areas in order to strengthen European competitiveness and help create new markets and societal applications. It should be reviewed regularly in accordance with the evolution of the scientific and industrial needs in Europe.

- (b) submit to the Executive Director the draft multiannual strategic research and innovation agenda as a basis for the work plan within the deadlines set by the Governing Board;
- (c) organise public consultations open to all public and private stakeholders having an interest in the field of high performance computing, to inform them about and collect feedback on the draft multiannual strategic research and innovation agenda and the draft research and innovation activities plan for a given year.

#### Article 14

##### **Tasks of the Infrastructure Advisory Group**

- (1) The Infrastructure Advisory Group shall provide advice to the Governing Board for the acquisition and operation of the pre-exascale supercomputers of the Joint Undertaking. It shall:
  - (a) draw up and regularly update the draft multiannual strategic agenda for the acquisition and operation of the pre-exascale supercomputers referred to in Article 20 for achieving the objectives of the Joint Undertaking set out in Article 3 of this Regulation. This draft multiannual strategic plan should include the specifications for the selection of the hosting entities and the planning for the acquisition of infrastructure; for these, it should identify needed capacity increases, the types of applications and user communities to be addressed, the system architectures, and the integration with national High Performance Computing infrastructures.
  - (b) submit to the Executive Director the draft multiannual strategic agenda for the acquisition and operation of the pre-exascale supercomputers as a basis for the procedures referred to in 0 within the deadlines set by the Governing Board;
  - (c) organise public consultations open to all public and private stakeholders having an interest in the field of high performance computing, to inform them about and collect feedback on the draft multiannual strategic agenda for the acquisition and operation of the pre-exascale supercomputers and related activities plan for a given year.

#### Article 15

##### **Sources of financing**

- (1) The Joint Undertaking shall be jointly funded by its members through financial contributions paid in instalments and in kind contributions as set out in paragraphs (2) and (3).
- (2) The administrative costs of the Joint Undertaking shall not exceed EUR 22 000 000 and shall be covered by means of the financial contributions referred to in Article 4(1), 5(1) and 5(2) of this Regulation.

If part of the contribution for administrative costs is not used, it may be made available to cover the operational costs of the Joint Undertaking.

- (3) The operational costs of the Joint Undertaking shall be covered by means of:
- (a) the Union's financial contribution;
  - (b) financial contributions from Participating States to the Joint Undertaking;
  - (c) financial contributions from Participating States to the operational costs of a hosting entity;
  - (d) in kind contributions by the Participating States consisting of the costs incurred by the hosting entities for the operational costs of the pre-exascale supercomputers owned by the Joint Undertaking, less the contributions by the Joint Undertaking and any other Union contribution to those costs;
  - (e) in kind contributions by the Participating States consisting of the costs incurred by the supercomputing centres for the co-funding of the petascale supercomputers, less the contributions by the Joint Undertaking and any other Union contribution to those costs;
  - (f) in kind contributions by the Private Members or their constituent entities and affiliated entities consisting of the costs incurred by them in implementing actions less the contributions by the Joint Undertaking and any other Union contribution to those costs.
- (4) The resources of the Joint Undertaking entered in its budget shall be composed of the following contributions:
- (a) members' financial contributions to the administrative costs;
  - (b) members' financial contributions to the operational costs;
  - (c) any revenue generated by the Joint Undertaking;
  - (d) any other financial contributions, resources and revenues.
- Any interest yielded by the contributions paid to the Joint Undertaking shall be considered to be its revenue.
- (5) Should any member of the Joint Undertaking be in default of its commitments concerning its financial contribution, the Executive Director shall put this in writing and shall set a reasonable period within which such default shall be remedied. If the situation is not remedied within that period, the Executive Director shall convene a meeting of the Governing Board to decide whether the defaulting member's membership is to be revoked or whether any other measures are to be taken until its obligations have been met. The defaulting member's voting rights shall be suspended until the default of its commitments is remedied
- (6) The resources and activities of the Joint Undertaking shall be intended for the achievement of the objectives set out in Article 3 of this Regulation.
- (7) The Joint Undertaking shall own all assets generated by it or transferred to it for the achievement of its objectives set out in Article 3 of this Regulation. This shall not include the supercomputers whose ownership the Joint Undertaking may have transferred to a hosting entity in accordance with Article 8 of this Regulation.
- (8) Except when the Joint Undertaking is wound up, any excess revenue over expenditure shall not be paid to the members of the Joint Undertaking.

#### Article 16

### **Contributions of the Participating States**

- (1) The Participating States shall entrust the Joint Undertaking with the implementation of their financial contributions to the Joint Undertaking.
- (2) When providing their financial contribution to the Joint Undertaking the Participating States shall include a breakdown of their contribution, specifying the contribution to
  - (a) the acquisition of supercomputers;
  - (b) the operation of supercomputers and
  - (c) the other activities to be funded by the Joint Undertaking.
- (3) The Governing Board shall establish the detailed terms and conditions for the financial contribution of the Participating States to the Joint Undertaking.

#### Article 17

##### **Financial commitments**

The financial commitments of the Joint Undertaking shall not exceed the amount of financial resources available or committed to its budget by its members.

#### Article 18

##### **Financial year**

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

#### Article 19

##### **Operational and financial planning**

- (1) The multiannual strategic plan shall specify the strategy and plans for achieving the objectives of the Joint Undertaking set out in Article 3 of this Regulation. The multiannual strategic plan shall be composed by a multiannual strategic research and innovation agenda and a multiannual strategic agenda for the acquisition of supercomputers from the Industrial and Scientific Advisory Board and multiannual financial perspectives from the Participating States and the Commission.
- (2) The Executive Director shall submit to the Governing Board for adoption a draft annual or multiannual work plan which shall include the research and innovation activities plan, the procurement plan, the administrative activities and the corresponding expenditure estimates.
- (3) The work plan shall be adopted by the end of the year prior to its implementation. The work plan shall be made publicly available.
- (4) The Executive Director shall prepare the draft annual budget for the following year and shall submit it to the Governing Board for adoption.
- (5) The annual budget for a particular year shall be adopted by the Governing Board by the end of the previous year.
- (6) The annual budget shall be adapted in order to take into account the amount of the Union's financial contribution as set out in the Union budget.

#### Article 20

##### **Operational and financial reporting**

- (1) The Executive Director shall report annually to the Governing Board on the performance of the duties of the Executive Director in accordance with the financial rules of the Joint Undertaking.

Within two months of the closure of each financial year, the Executive Director shall submit to the Governing Board for approval an annual activity report on the progress made by the Joint Undertaking in the previous calendar year, in particular in relation to the annual work plan for that year. The annual activity report shall include, inter alia, information on the following matters:

- (a) research, innovation and other actions carried out and the corresponding expenditure;
  - (b) acquisition and operation of infrastructure, including the use of and access to the infrastructure, including the access-times effectively used by each Participating State;
  - (c) the proposals and tenders submitted, including a breakdown by participant type, including SMEs, and by country;
  - (d) the proposals selected for funding, with a breakdown by participant type, including SMEs, and by country, and indicating the contributions of the Joint Undertaking to the individual participants and actions;
  - (e) the tenders selected for funding, with a breakdown by type of contractor, including SMEs, and by country, and indicating the contributions of the Joint Undertaking to the individual contractors and procurement actions;
  - (f) the outcome of the procurement activities;
  - (g) progress towards the achievement of the objectives set out in Article 3 of this Regulation and proposals for further necessary work to achieve these objectives
- (2) Once approved by the Governing Board, the annual activity report shall be made publicly available.
  - (3) By 1 March of the following financial year, the accounting officer of the Joint Undertaking shall send the provisional accounts to the Commission's accounting officer and to the Court of Auditors.

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

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

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

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

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

The Executive Director shall provide the Court of Auditors with a reply to observations made in its annual report by 30 September. The Executive Director shall also submit that reply to the Governing Board.

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

#### Article 21

##### **Internal audit**

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

#### Article 22

##### **Liability of members and insurance**

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

#### Article 23

##### **Conflict of interest**

- (1) The Joint Undertaking, its bodies and staff shall avoid any conflict of interest in carrying out their activities.
- (2) The Joint Undertaking Governing Board shall adopt rules for the prevention and management of conflicts of interest in respect of its members, bodies and staff. Those rules shall contain provisions intended to avoid a conflict of interest in respect of the representatives of the members of the Joint Undertaking serving on the Governing Board.

#### Article 24

##### **Winding-up**

- (3) The Joint Undertaking shall be wound up at the end of the period laid down in Article 1 of this Regulation.
- (4) In addition to paragraph 1, the winding-up procedure shall be automatically triggered if the Union withdraws from the Joint Undertaking.
- (5) For the purpose of conducting the proceedings to wind up the Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.
- (6) When the Joint Undertaking is being wound up, its assets shall be used to cover its liabilities and the expenditure relating to its winding-up. The supercomputers owned by the Joint Undertaking shall be transferred to the respective hosting entity. The hosting entity shall reimburse the Joint Undertaking the residual value of the supercomputers that are transferred. Any surplus shall be distributed among the members at the time of the winding-up in proportion to their financial contribution to the Joint Undertaking. Any such surplus distributed to the Union shall be returned to the Union budget. The supercomputers belonging to the Joint Undertaking installed



in a hosting entity shall be transferred to the hosting entities. In this case the hosting entity shall reimburse the Joint Undertaking the residual value of the supercomputers that is transferred.

- (7) An *ad hoc* procedure shall be set up to ensure the appropriate management of any agreement concluded or decision adopted by the Joint Undertaking as well as any procurement contract with a duration longer than the duration of the Joint Undertaking.