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THE EUROPEAN UNION**

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From: Competitiveness Council of 10 October 2012
No. prev. doc.: **14021/12** RECH 346 COMPET 567 EDUC 270 CODEC 2185
No. Cion prop.: 18090/11 RECH 418 COMPET 588 EDUC 285 CODEC 2305
(COM (2011)817 final)

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 294/2008 establishing the European Institute of Innovation and Technology
- Partial general approach

Delegations will find attached the partial general approach on the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 294/2008 establishing the European Institute of Innovation and Technology, as reached by the Competitiveness Council meeting on 10 October 2012.

The recitals are not part of the partial general approach, but will be examined later.

CONSOLIDATED VERSION¹ OF

**Regulation (EC) No 294/2008 of the European Parliament and of the Council
of 11 March 2008
establishing the European Institute of Innovation and Technology**

AND

**Proposal for a Regulation of the European Parliament and of the Council amending
Regulation (EC) No 294/2008 establishing the European Institute of Innovation and
Technology**

*Whereas: (Proposal for a Regulation of the European Parliament and of the Council amending
Regulation (EC) No 294/2008)*

- (1) The Europe 2020 strategy for smart, sustainable and inclusive growth assigns a prominent role to the European Institute of Innovation and Technology (hereinafter referred to as the EIT) which contributes to a number of flagship initiatives.*
- (2) During the period 2014-2020 the EIT should contribute to "Horizon2020 - The Framework Programme for Research and Innovation" established by Regulation No XX/XXXX of the European Parliament and of the Council (hereinafter referred to as 'Horizon 2020') objectives by integrating the knowledge triangle of research, innovation and education.*

¹ The changes proposed by the Commission in comparison to the Regulation (EC) No 294/2008 are indicated in ~~Strikethrough~~ and **Bold**. The changes compared to the Commission proposal are in ~~strikethrough~~ and underlined.

- (3) *In order to ensure a coherent framework for participants in Horizon 2020, the Regulation No XX/XXXX of the European Parliament and of the Council laying down the rules for the participation and dissemination in 'Horizon 2020' – the Framework Programme for Research and Innovation (2014-2020) (hereinafter referred to as 'Rules for Participation') should apply to the EIT.***
- (4) *The rules concerning the management of intellectual property rights are defined in the Rules for Participation.***
- (5) *The rules concerning participating states and third countries are defined in Horizon 2020 Regulation.***
- (6) *The EIT should directly engage with national and regional representatives and other stakeholders from across the innovation chain, generating beneficial effects on both sides. In order to render such dialogue and exchange more systematic, an EIT Stakeholder Forum should be organised, bringing together the wider community of stakeholders around crosscutting issues.***
- (7) *The scope of the EIT contribution to the Knowledge and Innovation Communities (hereinafter referred to as KICs) should be defined and the origins of KICs' financial resources clarified.***
- (8) *The composition of the EIT bodies should be simplified. The functioning of the EIT Governing Board should be streamlined and the respective roles and tasks of the Governing Board and the Director should be further clarified.***
- (9) *New KICs, including their priority fields and the organisation and timing of the selection process, should be launched on the basis of modalities defined in the Strategic Innovation Agenda.***

- (10) The KICs should broaden their educational activities, by providing professional training courses.*
- (11) Cooperation on the organisation the monitoring and evaluations of the KICs between the Commission and the EIT is required to ensure coherence with overall EU level monitoring and evaluation system.*
- (12) The KICs should seek synergies with relevant European Union initiatives.*
- (13) In order to assure broader participation of organizations from different Members States in the KICs, the partner organizations should be established in at least three different Member States.*
- (14) The criteria and procedures for the financing, monitoring and evaluation of the activities of the KICs should be adopted by the EIT prior to launching the KIC selection process.*
- (15) The EIT Triennial Work Programme should take into account the Commission's opinion concerning the EIT's specific objectives, as defined in Horizon 2020, and its complementarities with European Union policies and instruments.*
- (16) The EIT, being under Horizon 2020, will be part of the mainstreaming of climate change expenditures as defined in Horizon 2020.*
- (17) The evaluation of the EIT should provide timely input to the evaluation of Horizon 2020 in 2017 and 2023.*
- (18) The Commission should strengthen its role in monitoring the implementation of specific aspects of EIT activities.*

- (19) This Regulation lays down, for the period 2014 to 2020, a financial envelope constituting the prime reference, within the meaning of point [17] of the Inter-institutional Agreement of XX/YY/201Z between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound financial management, for the budgetary authority during the annual budgetary procedure. The financial contribution for the EIT should be provided from Horizon 2020.*
- (20) Although initially foreseen, the EIT Foundation will not receive a direct contribution from the EU budget, the EU discharge procedure should not apply to it.*
- (21) For reasons of clarity the Annex to Regulation (EC) No 294/2008 should be replaced by a new Annex.*
- (22) Regulation (EC) No 294/2008 should therefore be amended accordingly.*

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 294/2008 is amended as follows:

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Article 1

Subject matter

A European Institute of Innovation and 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, including its outcome, by which new ideas respond to societal or economic demand and generate new products, services or business and organisational models that are successfully introduced into an existing market or that are able to create new markets;
2. "Knowledge and Innovation Community" (KIC) means an autonomous partnership of higher education institutions, research organisations, companies and other stakeholders in the innovation process in the form of a strategic network based on joint mid- to long-term innovation planning to achieve the EIT challenges, regardless of its precise legal form;

~~3. "participating State" means either a Member State of the European Union or another country having an agreement with the Community on the EIT;~~

~~4. "third country" means any State which is not a participating State;~~

3. "co-location centre" means a geographical area where the main knowledge triangle partners are based and can easily interact, providing the focal point for the KICs activity in that area;

5. "partner organisation" means any organisation which is a member of a KIC and may include in particular: higher education institutions, research organisations, public or private companies, financial institutions, regional and local authorities, foundations;

6. "research organisation" means any public or private legal entity which undertakes research or technological development as one of its main objectives;

7. "higher education institution" means a university or any type of higher education institution which, in accordance with national legislation or practice, offers degrees and diplomas at masters or doctoral level, irrespective of its denomination in the national context;

~~7. "higher education institution" means an institution within the meaning of Article 2 of Decision (EC) No XXX/20XX of the European Parliament and of the Council establishing "Erasmus for all";~~

8. "degrees and diplomas" means qualifications resulting in masters or doctorates awarded by participating higher education institutions in the context of higher education activities undertaken in a KIC;

9. "Strategic Innovation Agenda" (SIA) means a policy document outlining the priority fields of the EIT for future initiatives, including an overview of the planned higher education, research and innovation activities, for a period of seven years;
10. **"Stakeholder Forum" means a meeting open to representatives of national and regional authorities, organized interests and individual entities from business, higher education, and research, cluster organisations, as well as other interested parties from across the knowledge triangle;**
11. **"KIC added value activities" means activities carried out by partner organisations or KIC legal entities, if applicable, contributing to the integration of the knowledge triangle of research, innovation and higher education, including establishment, administrative and coordination activities of the KICs.**

Article 3

Objective

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

Article 3

Mission and Objectives

The EIT's mission is to contribute to sustainable European economic growth and competitiveness by reinforcing the innovation capacity of the Member States and the Union. It shall do this by promoting and integrating higher education, research and innovation of the highest standards.

The EIT' General Objectives, Specific Objectives and result indicators for the period 2014-2020 are defined in Horizon 2020.

Article 4
EIT bodies

1. The bodies of the EIT shall be:
 - (a) a Governing Board composed of high-level members experienced in higher education, research, innovation and business. 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. It shall be assisted by an Executive Committee;
 - ~~(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, appointed by the Governing Board, 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 Internal Auditing Function 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 Governing Board.
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 priority fields;~~
 - (b) raise awareness among potential partner organisations and encourage their participation in its activities;
 - (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 and from income generated by its own activities;
 - (e) encourage the recognition in the Member States of degrees and diplomas which are awarded by higher education institutions that are partner organisations and which may be labelled EIT degrees and diplomas;
 - (f) promote the dissemination of good practices for the integration of the knowledge triangle in order to develop a common innovation and knowledge transfer culture;
 - (g) seek to become a world class body for excellence in higher education, research and innovation;

- (h) ensure complementarity and synergy between EIT activities and other Community Union programmes, where appropriate.

 - (j) **convene, at least once a year, the Stakeholders Forum to inform about the activities of the EIT, its experiences, good practices and contribution to Union innovation, research and education policies and objectives. Stakeholders shall be invited to express their views.** Member States' representatives shall meet in a special configuration, within the Stakeholder Forum, to guarantee an appropriate communication and flow of information with the EIT, and be informed of the achievements, give advice to, and share experiences with the EIT and the KICs. The special configuration of Member States' representatives within the Stakeholder Forum shall also ensure appropriate synergies and complementarities between EIT and KIC activities with national programmes and initiatives, including the potential national co-financing of KIC activities.
2. The EIT shall have power to establish a Foundation (hereinafter referred to as the EIT Foundation) with the specific objective of promoting and supporting the activities of the EIT.

Article 6

KICs

1. KICs shall undertake in particular:
- (a) innovation activities and investments with European added value, fully integrating the higher education and research dimensions to attain a critical mass and 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 results of European and national research, with the potential to strengthen Europe's competitiveness at international level;

- ~~(c) education and training activities at masters and doctoral level, in disciplines with the potential to meet future European socio-economic needs and which promote the development of innovation-related skills, the improvement of managerial and entrepreneurial skills and the mobility of researchers and students;~~
- (c) education and training activities at masters and doctoral level, as well as professional training courses, in disciplines with the potential to meet future European socio-economic needs and which promote the development of innovation-related skills, the improvement of managerial and entrepreneurial skills and the mobility of researchers and students;**
- (d) the dissemination of best practices in the innovation sector with a focus on the development of cooperation between higher education, research and business, including the service and financial sectors.
2. KICs shall have substantial overall autonomy to define their internal organisation and composition, as well as their precise agenda and working methods. In particular, KICs shall aim to be open to new members whenever these members add value to the partnership.
3. The relationship between the EIT and each KIC shall be based on a contractual agreement.

Article 7

Selection of KICs

1. A partnership shall be selected and designated by the EIT to become a KIC on the basis of a competitive, open and transparent procedure. Detailed criteria for the selection of the KICs, based on the principles of excellence and innovation relevance, shall be adopted and published by the EIT; external and independent experts shall be involved in the selection process.
- 1a. The EIT shall launch the selection and designation of KICs according to the priority fields and time schedule defined in the SIA.**

2. In accordance with the principles enshrined in paragraph 1, the selection of a KIC shall take particular account of:
- (a) the current and potential innovation capacity within the partnership as well as its excellence in higher education, research and innovation;
 - (b) the partnership's capacity to achieve the goals of the SIA;
 - (c) the partnership's capacity to ensure sustainable and long-term self-supporting financing including a substantial and increasing contribution from the private sector, industry and services;
 - (d) the participation in the partnership of organisations active in the knowledge triangle of higher education, research and innovation;
 - (e) the demonstration of a plan 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~~, including the way in which contributions from the various partner organisations have been taken into account;
 - (f) measures to support the involvement of and cooperation with the private sector, including the financial sector and in particular SMEs, as well as the creation of start-ups, spin-offs and SMEs, in view of the commercial exploitation of the results of the activities of KICs;
 - (g) readiness to interact with other organisations and networks outside the KIC with the aim of sharing good practices and excellence.
 - (h) readiness to establish concrete proposals for synergies with other European Union initiatives.**

~~3. The minimum condition to form a KIC is the participation of at least three partner organisations, established in at least two different Member States. All these partner organisations must be independent of each other, within the meaning of Article 6 of Regulation (EC) No 1906/2006 of the European Parliament and of the Council of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013).~~

3. The minimum condition to form a KIC is the participation of at least three partner organisations, established in at least three different Member States. All these partner organisations must be independent of each other, within the meaning of Article 7 of Rules for Participation.

~~4. A KIC may include partner organisations from third countries, subject to the approval of the Governing Board. The majority of the partner organisations forming a KIC shall be established in the Member States. At least one higher education institution and one private company shall be part of each KIC.~~

4. The majority of the partner organisations forming a KIC shall be established in the Member States. At least one higher education institution and one private company shall be part of each KIC.

5. The EIT shall adopt criteria and procedures for the financing, monitoring and evaluating of the activities of the KICs prior to the launching of the selection procedure for new KICs. The special configuration of Member States' representatives within the Stakeholder Forum shall be promptly informed about them.

Article 7a

Principles for the evaluation and monitoring of KICs

The EIT, shall on the basis of key performance indicators set out in the Regulation (EU) No XX/XX of the European Parliament and of the Council [Horizon 2020] and in cooperation with the Commission, organise continuous monitoring and periodic external evaluations of the outputs, results and impact of each KIC. The results of these monitoring and evaluation measures shall be reported to the Council and to the European Parliament.

Article 7b

Duration, continuation and termination of a KIC

- 1. Subject to the outcomes of periodic evaluations and to the specificities of particular fields, a KIC shall normally have a time-frame of seven to fifteen years.**
- 2. The Governing Board may decide to extend the operation of a KIC beyond the period initially set within the limits of the financial envelope referred to in Article 19, if this is the most appropriate way to achieve the objectives of the EIT.**
- 3. In the event that evaluations of a KIC show inadequate results, the Governing Board shall take appropriate measures including reduction, modification or withdrawal of its financial support or termination of the agreement.**

Article 8
Degrees and diplomas

1. Degrees and diplomas relating to the higher education activities referred to in Article 6(1)(c) shall be awarded by participating higher education institutions in accordance with 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 degrees and diplomas.
2. The EIT shall encourage participating higher education institutions 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 higher education institution;
 - (b) take into account:
 - (i) Community action undertaken in accordance with Articles 149 and 150 of the Treaty;
 - (ii) action undertaken in the context of the European Higher Education Area.

Article 9
**Independence of the EIT and consistency with Community, Member State 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 higher education, research and innovation.
3. The EIT shall also take appropriate account of policies and initiatives at regional, national and intergovernmental levels in order to make use of best practices, well established 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, Regulation (EC) No 1906/2006.~~
- ~~2. On the basis of these guidelines, the partner organisations of each KIC shall conclude among themselves an agreement on the management and use of intellectual property which shall define, in particular, how the contributions of the various partner organisations, including SMEs, will be taken into account.~~

Article 11

Legal status

1. The EIT shall be a Community body 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 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 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 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. In particular, the EIT shall set up an accessible, free website providing information about the activities of the EIT and individual KICs.
2. The EIT shall make public its rules of procedure, its specific financial rules referred to in Article 21(1) and the detailed criteria for the selection of the KICs referred to in Article 7 before the first call of proposals for the selection of the first KICs.
3. The EIT shall make public without delay its rolling triennial work programme and annual activity report referred to in Article 15.
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 this Regulation shall be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

- 6 Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents shall apply to the documents held by the EIT. The Governing Board shall adopt practical arrangements for applying that Regulation no later than six months after the EIT has been set up.
7. Official documents and publications of the EIT shall be translated in accordance with the Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community. The required translation services shall be provided by the Translation Centre for bodies of the European Union, set up by Council Regulation (EC) No 2965/1994.

Article 14

Financial resources

1. The EIT shall be financed through a contribution from the general budget of the European Union within the financial envelope as set out in Article 19 and other private and public sources.
- ~~2. The KICs shall be financed, in particular, from the following sources:~~
 - ~~(a) contributions from companies or private organisations, forming a substantial source of funding;~~
 - ~~(b) contributions from the general budget of the European Union;~~

- ~~(c) statutory or voluntary contributions from participating States, third countries or public authorities within them;~~
- ~~(d) bequests, donations and contributions from individuals, institutions, foundations or any other national bodies;~~
- ~~(e) revenue generated by the KICs' own activities and royalties from intellectual property rights;~~
- ~~(f) revenue generated by the EIT's activities outcomes or capital endowments, including those managed by the EIT Foundation;~~
- ~~(g) contributions from international bodies or institutions;~~
- ~~(h) loans and contributions from the European Investment Bank, including the possibility to use the Risk Sharing Finance Facility, pursuant to the eligibility criteria and the selection procedure.~~

~~Contributions may include contributions in kind.~~

2. The KICs shall be financed, in particular, from the following sources:

- (a) contributions from partner organizations, forming a substantial source of funding;**
- (b) ~~statutory or voluntary contributions from Member States, third countries or public authorities within them;~~**
- (c) contributions from international bodies or institutions;**
- (d) revenue generated by the KICs' own assets and activities and royalties from intellectual property rights;**

- (e) **capital endowments, including those managed by the EIT Foundation;**
- (f) **bequests, donations and contributions from individuals, institutions, foundations or any other national bodies;**
- (g) **contribution from the EIT;**
- (h) **financial instruments, including those funded from the general budget of the European Union".**

Contributions may include contributions in kind.

3. The modalities for accessing funding from the EIT shall be defined in the financial rules of the EIT referred to in Article 21(1).
- ~~4. The contribution from the general budget of the European Union to the establishment, administrative and coordination costs of the KICs shall be provided from the financial envelope as set out in Article 19.~~
- 4. The EIT contribution may cover, up to 100% of total eligible costs of KIC added value activities.**
5. The KICs or their partner organisations may apply for Community assistance, in particular in the framework of Community programmes and funds, in accordance with their respective rules and on an equal footing with other applications. In that case, such assistance shall not be attributed for activities already funded through the general budget of the European Union.

Article 15
Programming and reporting

The EIT shall adopt:

- (a) ~~a rolling triennial work programme, based on the SIA, once it is adopted, containing a statement of its major priorities and planned initiatives, including an estimate of financing needs and sources. The work programme shall be transmitted by the EIT to the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Committee for the Regions for information;~~

- (b) ~~an annual report by 30 June each year. The report shall outline the activities conducted by the EIT during the preceding calendar 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.~~

Article 15
Programming and reporting

The EIT shall adopt:

- (a) **a rolling triennial work programme, based on the SIA, once it is adopted, containing a statement of the major priorities and planned initiatives of the EIT and the KICs, including an estimate of financing needs and sources. It shall also contain appropriate indicators for monitoring the KICs and EIT activities. The preliminary rolling triennial work programme shall be submitted by the EIT to the Commission by 31 December each N-2. The Commission shall deliver an opinion within three months with regard to EIT specific objectives as defined in Horizon 2020 and its complementarities with Union policies and instruments. The EIT shall take a due account of the Commission opinion, and in case of disagreement justify its position. The final work programme shall be transmitted by the EIT to the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Committee of the Regions for information;**
- (b) **an annual report by 30 June each year. The report shall outline the activities conducted by the EIT and the KICs during the preceding calendar year and assess the results with respect to the objectives, indicators and timetable set, the risks associated with the activities carried out, the use of resources and the general operation of the EIT. The EIT shall transmit the annual report to the European Parliament and the Council and inform them at least once a year about the activities of the EIT, its contribution to Horizon 2020 and to the Union innovation, research and education policies and objectives.**

Article 16

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 evaluations shall be made public.

2. By June 2011 and every ~~five~~ **three** years after the entry into force of a new financial framework, the Commission shall provide for 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 assess the added value of the EIT, the impact, effectiveness, sustainability, efficiency and relevance of the activities pursued and their relationship and/or complementarity with existing national and Community policies, to support higher education, research and innovation. It shall take into account the views of stakeholders, at both European and national level.
 - 2a. **The Commission may carry out further evaluations on themes or topics of strategic relevance, with the assistance of independent experts, to examine the progress made by the EIT towards the objectives set, identify the factors contributing to the implementation of the activities and identify good practices. In pursuing such interventions, the Commission shall fully consider the administrative impact on the EIT and the KICs.**

3. The Commission shall forward the results of the evaluation, together with its own opinion and, where appropriate, any proposals to amend this Regulation, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The Governing Board shall take due account of the findings of evaluations in the programmes and operations of the EIT.

Article 17

SIA

1. By 30 June 2011 at the latest and every seven years thereafter, the EIT shall prepare a seven-year draft SIA and submit it to the Commission.
2. The SIA shall define long-term priority fields for the EIT and shall include an assessment of its socioeconomic impact and its capacity to generate the best innovation added-value. The SIA shall take into account the results of the monitoring and evaluation of the EIT as referred to in Article 16.
- 2a. The SIA shall include an analysis of potential and appropriate synergies and complementarities between EIT activities and other Union initiatives, instruments and programmes.**
3. The SIA shall include an estimate of financial needs and sources in view of the future operation, long-term development and funding of the EIT. It shall also contain an indicative financial plan covering the period of the financial framework.
4. Acting on a proposal from the Commission, the SIA shall be adopted by the European Parliament and the Council in accordance with Article 157(3) of the Treaty.

Article 18
Initial phase

1. Within 12 months after its creation, the Governing Board shall submit the draft of the first rolling triennial work programme, referred to in Article 15(a), to the European Parliament, the Council and the Commission. The European Parliament, the Council and the Commission may each address an opinion to the Governing Board on any subject covered in draft within three months of the day on which they received it. Where such opinions are addressed to it, the Governing Board shall reply within a period of three months, indicating any adjustments in the priorities and planned activities.
2. Within a period of 18 months from the date of creation of the Governing Board, the EIT shall select and designate two or three KICs in accordance with the criteria and procedures set out in Article 7.
3. The Commission shall submit the proposal for the first SIA, on the basis of the draft provided by the EIT, to the European Parliament and the Council before the end of 2011.

In addition to the content of a SIA in accordance with Article 17, the first SIA shall include:

- (a) detailed specifications and terms of reference concerning the operation of the EIT;
 - (b) the modalities for cooperation between the Governing Board and the KICs;
 - (c) modalities of the funding of the KICs.
4. After the adoption of the first SIA in accordance with Article 17(4), the Governing Board may select and designate additional KICs pursuant to the provisions of Articles 6 and 7.

Article 19

Budgetary commitments

~~The financial envelope for the implementation of this Regulation during the period from 1 January 2008 to 31 December 2013 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 19

Budgetary commitments

The financial envelope from Horizon 2020 for the implementation of this Regulation during the period from 1 January 2014 to 31 December 2020 is set at [EUR 3.182,230 million]. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework. The EIT financial contribution to the KICs shall be provided under this financial envelope.

Article 20

Preparation and adoption of the annual budget

1. The expenditure of the EIT shall include the staff, administrative, infrastructure and operational expenses. Administrative expenditure shall be kept to a minimum.
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 a draft establishment plan, and the preliminary rolling triennial work programme and forward them by 31 March to the Commission.~~

5. The Governing Board shall adopt the draft estimate, accompanied by a draft establishment plan and the preliminary rolling triennial work programme and forward them by 31 December N-2 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.~~

6. On the basis of the estimate, the Commission shall enter in the 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 shall adopt 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. The Governing Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of the EIT budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

10. Any substantial modification of the budget shall follow the same procedure.

Article 21

Implementation and control of the budget

1. The EIT shall adopt its financial rules in accordance with Article 185(1) of Regulation (EC, Euratom) No 1605/2002. These may not depart from Regulation (EC, Euratom) No 2343/2002 except where the EIT's specific operating needs so require and with the Commission's prior consent. 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.
 - 1a. **The financial contribution to the EIT, shall be implemented in accordance with the Regulation of the European Parliament and of the Council establishing Horizon 2020 and with the Regulation of the European Parliament and of the Council laying down the rules for the participation and dissemination in Horizon 2020.**
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 EIT Foundation.~~
 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.**

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 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) shall apply to the EIT in its entirety.
2. The EIT shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF). The Governing Board shall formalise this accession and adopt the necessary measures to help OLAF carry out internal investigations.
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 22a

Winding up of the EIT

In the event of winding up of the EIT, its liquidation shall intervene under the supervision of the Commission in conformity with the laws applicable. The agreements with the KICs and the act establishing the EIT Foundation shall lay down the appropriate provisions in such situation.

Article 23

Statutes

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

Article 24

Entry into force

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.

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Article 2

The Annex to Regulation (EC) No 294/2008 shall be replaced by the Annex to this Regulation.

Article 3

This Regulation shall enter into force on 1 January 2014.

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

Done at Brussels,

~~Statutes of the European Institute of Innovation and Technology~~

~~Article 1~~

~~Composition of the Governing Board~~

~~1.—The Governing Board shall consist both of appointed members providing a balance between those with experience in business, higher education and research (hereinafter referred to as appointed members) and members elected by and from among the higher education, research and innovation, technical and administrative staff, students and doctoral candidates of the European Institute of Innovation and Technology (EIT) and the Knowledge and Innovation Communities (KICs) (hereinafter referred to as representative members).~~

~~As a transitional provision, the initial Governing Board shall consist exclusively of appointed members until elections for representative members can be held, after the first KIC has been established.~~

~~2.—There shall be 18 appointed members. They shall have a six-year non-renewable term of office. They shall be appointed by the Commission, in accordance with a transparent procedure. The Commission shall inform the European Parliament and the Council about the selection process and the final appointment of those members of the Governing Board.~~

~~The appointed members of the initial Governing Board shall be appointed on the basis of a list of potential candidates proposed by an ad-hoc Identification Committee, which shall be composed of four independent high level experts appointed by the Commission. The subsequent appointed members shall be appointed on the basis of a list of potential candidates proposed by the Governing Board.~~

3. ~~The Commission shall have regard to the balance between higher education, research, innovation and business experience as well as to gender balance and an appreciation of the higher education, research and innovation environments across the Union.~~
4. ~~One third of the appointed members shall be replaced every two years. An appointed member who has served for a period of less than four years shall be eligible for reappointment, subject to an overall limit of six years in office.~~

~~During a transitional period, 12 appointed members of the initial Governing Board shall be chosen by lot to serve for a four-year term of office. At the end of the initial four-year period, six of the 12 newly appointed members shall be chosen by lot to serve for a four-year term of office. The Chairperson of the Governing Board is not part of this transitional process.~~

5. ~~There shall be four representative members. They shall have a three-year term of office, renewable once. Their term of office shall cease if they leave the EIT or a KIC. They shall be replaced through the same election process for the remainder of the term of office.~~
6. ~~The conditions and modalities for election and replacement of the representative members shall be approved by the Governing Board on the basis of a proposal from the Director before the first KIC is in operation. This mechanism shall ensure an appropriate representation of the diversity and shall take into account the evolution of the EIT and the KICs.~~
7. ~~In the event that a member of the Governing Board is unable to complete his term of office, a substitute member shall be appointed or elected by the same procedure as the incapacitated member in order to complete the latter's term of office.~~

Section 1

Composition of the Governing Board

- 1. The Governing Board shall consist both of appointed and representative members.**
- 2. There shall be 12 appointed members, appointed by the Commission, providing a balance between those with experience in business, higher education and research. They shall have a four-year non-renewable term of office. Whenever necessary, the Governing Board shall submit to the Commission a proposal for appointment of a new member(s). The candidate(s) shall be chosen based on the outcome of a transparent and open procedure, involving consultation with stakeholders.**

The Commission shall have regard to the balance between higher education, research, innovation and business experience as well as to gender and geographical balance and an appreciation of the higher education, research and innovation environments across the Union.

The Commission shall appoint the member(s) and inform the European Parliament and the Council about the selection process and the final appointment of those members of the Governing Board.

In the event that an appointed member is unable to complete his/her term of office, a substitute member shall be appointed by the same procedure as the incapacitated member in order to complete the latter's term of office. A substitute member, who has served for a period of less than two years, may be re-appointed by the Commission for a period of additional four years upon request of the Governing Board.

During a transitional period, the Board members initially appointed for a six year period shall complete their mandate. Until that time there shall be 18 appointed members. Within six months after entry into force of this regulation, one third of twelve members appointed in 2012 shall be chosen by the Governing Board with the Commission approval to serve for a two year period, one third for a four year period and one third for a six year period.

- 3. There shall be three representative members elected by the KICs from among their partner organizations. They shall have a two-year term of office, renewable once. Their term of office shall cease if they leave the KIC.**

The conditions and modalities for election and replacement of the representative members shall be adopted by the Governing Board on the basis of a proposal from the Director. This mechanism shall ensure an appropriate representation of the diversity and shall take into account the evolution of the KICs.

During a transitional period, the representative members initially elected for a three year period shall complete their mandate. Until that time there shall be four representative members.

- 4. The Governing Board members shall act in the interests of the EIT, safeguarding its goals and mission, identity and coherence, in an independent way.**

Article 2

~~Responsibilities of the Governing Board~~

1. ~~The Governing Board members shall act in the interests of the EIT, safeguarding its goals and mission, identity and coherence, in an independent way.~~

2. ~~The Governing Board shall, in particular:~~
 - (a) ~~define the EIT strategy as enshrined in the Strategic Innovation Agenda (SIA), the triennial rolling work programme, its budget, its annual accounts and balance sheet and its annual activity report on the basis of a proposal from the Director;~~

 - (b) ~~specify the priority fields in which to establish the KICs;~~

 - (c) ~~provide a contribution in view of the preparation of the SIA;~~

 - (d) ~~draw up detailed specifications and terms of references on the operation of the EIT in the framework of the SIA, including criteria and procedures for the financing, monitoring and evaluating of the activities of the KICs;~~

 - (e) ~~select and designate a partnership as a KIC or withdraw the designation if necessary;~~

 - (f) ~~ensure continuing evaluation of the activities of KICs;~~

 - (g) ~~adopt its rules of procedure, including those for the selection of the KICs, those for the Executive Committee, as well as the specific financial rules of the EIT;~~

 - (h) ~~define, with the Commission's agreement, appropriate honoraria for members of the Governing Board and of the Executive Committee; these honoraria shall be benchmarked against similar provision in the Member States;~~

- ~~(i) — dopt a procedure for choosing the Executive Committee and the Director;~~
- ~~(j) — appoint and if necessary dismiss the Director, and exercise disciplinary authority over him/her;~~
- ~~(k) — appoint the Accounting Officer, the members of the Executive Committee and the members of the Internal Auditing Function;~~
- ~~(l) — establish where appropriate advisory groups which may have a defined duration;~~
- ~~(m) — promote the EIT globally, so as to raise its attractiveness and make it a world-class body for excellence in higher education, research and innovation;~~
- ~~(n) — adopt a code of good conduct regarding conflicts of interest;~~
- ~~(o) — define principles and guidelines for the management of intellectual property rights;~~
- ~~(p) — set up an Internal Auditing Function in accordance with Commission Regulation (EC, Euratom) No 2343/2002;~~
- ~~(q) — be empowered to establish a Foundation (hereinafter referred to as the EIT Foundation) with the specific objective of promoting and supporting the activities of the EIT;~~
- ~~(r) — ensure complementarity and synergy between EIT activities and other Community programmes;~~
- ~~(s) — decide on EIT's language regime, taking into account the existing principles on multilingualism and the practical requirements of its operations.~~

~~3. — The Governing Board may delegate specific tasks to the Executive Committee.~~

~~4. The Governing Board shall elect its Chairperson from among the appointed members. The term of office of the Chairperson shall be three years, renewable once.~~

Section 2

Responsibilities of the Governing Board

- 1. The Governing Board shall take necessary strategic decisions, in particular:**
 - (a) adopt the EIT draft Strategic Innovation Agenda (SIA), the triennial rolling work programme, its budget, its annual accounts and balance sheet and its annual activity report, on the basis of a proposal from the Director;**
 - (b) adopt criteria and procedures for the financing, monitoring and evaluating of the activities of the KICs, on the basis of a proposal from the Director;**
 - (c) adopt the selection procedure of the KICs;**
 - (d) select and designate a partnership as a KIC or withdraw the designation if necessary;**
 - (e) ensure continuing evaluation of the activities of KICs;**
 - (f) adopt its rules of procedure, those for the Executive Committee, as well as the specific financial rules of the EIT;**
 - (g) define, with the Commission's agreement, appropriate honoraria for members of the Governing Board and of the Executive Committee; these honoraria shall be benchmarked against similar provision in the Member States;**
 - (h) adopt a procedure for selecting the Executive Committee and the Director;**

- (i) appoint and if necessary dismiss the Director, and exercise disciplinary authority over him/her;**
- (j) appoint the Accounting Officer and the members of the Executive Committee;**
- (k) adopt a code of good conduct regarding conflicts of interest;**
- (l) establish where appropriate advisory groups which may have a defined duration;**
- (m) set up an Internal Auditing Function in accordance with Commission Regulation (EC, Euratom) No 2343/2002;**
- (n) be empowered to establish a Foundation (hereinafter referred to as the EIT Foundation) with the specific objective of promoting and supporting the activities of the EIT;**
- (o) decide on EIT's language regime, taking into account the existing principles on multilingualism and the practical requirements of its operations;**
- (p) promote the EIT globally, so as to raise its attractiveness and make it a world-class body for excellence in higher education, research and innovation.**

Article 3

Functioning of the Governing Board

~~1. Without prejudice to paragraph 2, the Governing Board shall adopt decisions by simple majority of all its members.~~

~~However, decisions under Article 2(2)(a), (b), (c), (d), (i) and (s), and (4) shall require a majority of two thirds of all its members.~~

~~2. The representative members may not vote on decisions under Article 2(2)(e), (g), (i), (j), (k), (q) and (s).~~

~~3. The Governing Board shall meet in ordinary session at least three times a year and in extraordinary session when convened by its Chairperson or on request of at least one third of its members.~~

Section 3

Functioning of the Governing Board

1. The Governing Board shall elect its Chairperson from among the appointed members. The term of office of the Chairperson shall be two years, renewable once.

2. Without prejudice to paragraph 3, the Governing Board shall adopt decisions by simple majority of members having a right to vote. However, decisions under Section 2(2) (a), (b), (c), (i) and (o), and Section 3(1) shall require a majority of two thirds of all its members.

3. The representative members may not vote on decisions under Section 2(2)(b), (c), (d), (e), (f), (g), (i), (j), (k), (o) and (p).

4. **The Governing Board shall meet in ordinary session at least three times a year and in extraordinary session when convened by its Chairperson or on request of at least one third of its members.**

5. **The Governing Board shall be assisted by the Executive Committee. The Executive Committee shall consist of three persons including the Chairperson of the Governing Board who will also chair the Executive Committee. The two members other than the Chairperson shall be chosen by the Governing Board from among the Governing Board's appointed members. The Governing Board may delegate specific tasks to the Executive Committee.**

Article 4

~~The Executive Committee~~

~~1. The Executive Committee shall consist of five persons including the Chairperson of the Governing Board who will also chair the Executive Committee.~~

~~The four members other than the Chairperson shall be chosen by the Governing Board from among the Governing Board's appointed members.~~

~~2. The Executive Committee shall meet on a regular basis as convened by its Chairperson or on the request of the Director.~~

~~3. The Executive Committee shall take its decisions by simple majority of all its members.~~

~~4. The Executive Committee shall:~~

- ~~(a) prepare the meetings of the Governing Board;~~
- ~~(b) oversee the implementation of the SIA and rolling triennial work programme;~~
- ~~(c) oversee the selection procedure for KICs;~~
- ~~(d) take any decisions delegated to it by the Governing Board.~~

Section 4

The Director

- 1. The Director shall be a person with expertise and high reputation in the areas where the EIT operates. The Director shall be appointed by the Governing Board for a term of office of four years. The Governing Board may extend that term of office once by four years when it considers that the interests of the EIT are best served by so doing.**
- 2. The Director shall be responsible for operations and for the day-to-day management of the EIT and be its legal representative. The Director shall be accountable to the Governing Board and report to it on an ongoing basis on the development of the EIT activities.**
- 3. The Director shall in particular:**
 - (a) organize and manage the activities of the EIT;**
 - (b) support the Governing Board and the Executive Committee in their work, provide the secretariat for their meetings and with all information necessary for the performance of their functions;**

- (c) prepare a draft SIA, a preliminary rolling triennial work programme, the draft annual report and the draft annual budget for submission to the Governing Board;**
- (d) prepare and administer the selection process for KICs and ensure that the various stages of that process are carried out in a transparent and objective manner;**
- (e) organise and manage the activities of the EIT;**
- (f) prepare, negotiate and conclude contractual agreements with the KICs;**
- (g) organize the Stakeholders Forum, including the special configuration of Member States' representatives;**
- (h) ensure the implementation of effective monitoring and evaluation procedures relating to the performance of the EIT in accordance with Article 16 of the Regulation;**
- (i) be responsible for administrative and financial matters, including the implementation of the EIT budget. In this the Director shall take due account of advice received from the Internal Auditing Function;**
- (j) be responsible for all staff matters;**
- (k) submit the draft annual accounts and balance sheet to the Internal Auditing Function, and subsequently to the Governing Board, through the Executive Committee;**
- (l) ensure that the obligations of the EIT with regard to the contracts and agreements it concludes are met;**

Article 5
The Director

1. ~~The Director shall be a person with expertise and high reputation in the areas where the EIT operates. The Director shall be appointed by the Governing Board for a term of office of four years. The Governing Board may extend that term of office once by four years when it considers that the interests of the EIT are best served by so doing.~~

2. ~~The Director shall be responsible for the day to day management of the EIT and be its legal representative. The Director shall be accountable to the Governing Board and report to it on an ongoing basis on the development of the EIT activities.~~

3. ~~The Director shall in particular:~~
 - (a) ~~support the Governing Board and the Executive Committee in their work and provide the secretariat for their meetings;~~

 - (b) ~~prepare a draft SIA, a draft rolling triennial work programme, the annual report and the annual budget for submission to the Governing Board through the Executive Committee;~~

 - (c) ~~administer the selection process for KICs and ensure that the various stages of that process are carried out in a transparent and objective manner;~~

 - (d) ~~organise and manage the activities of the EIT;~~

 - (e) ~~ensure the implementation of effective monitoring and evaluation procedures relating to the performance of the EIT in accordance with Article 16 of the Regulation;~~

 - (f) ~~be responsible for administrative and financial matters, including the implementation of the EIT budget. In this the Director shall take due account of advice received from the Internal Auditing Function;~~

- ~~(g) — be responsible for all staff matters;~~
- ~~(h) — submit the draft annual accounts and balance sheet to the Internal Auditing Function, and subsequently to the Governing Board, through the Executive Committee;~~
- ~~(i) — ensure that the obligations of the EIT with regard to the contracts and agreements it concludes are met;~~
- ~~(j) — provide the Executive Committee and the Governing Board with all information necessary for the performance of their functions.~~

Section 5

Staff of the EIT

- 1. The staff of the EIT shall consist of personnel employed directly by the EIT under fixed term contracts. The conditions of employment of other servants of the European Union shall apply to the Director and the Staff of the EIT.**
- 2. Experts may be seconded to the EIT for a limited duration by participating States or other employers. The Governing Board shall adopt provisions enabling seconded experts from participating States or other employers to work at the EIT and defining their rights and responsibilities.**
- 3. The EIT shall exercise, with regard to its staff, the powers which are devolved to the authority authorized to conclude the contracts with the staff members.**
- 4. A member of staff may be required to make good, in whole or in part, any damage suffered by the EIT as a result of serious misconduct on his/her part in the course of or in connection with the performance of his/her duties.**

Article 6

Preparation of establishment of the support structure

~~For a transitional period, the Commission shall provide the necessary support towards the establishment of the EIT structure. For that purpose, until such time as the first appointed members of the Governing Board are appointed, an official appointed by the Commission shall be the EIT legal representative and be responsible for staff, administrative and financial matters, including the implementation of the EIT budget. Thereafter, the Governing Board shall designate, according to a transparent procedure, a person who shall fulfil these functions or extend the mandate of the official appointed by the Commission, until such time as the Director takes up his/her duties following his/her appointment by the Governing Board, in accordance with Article 5. The Governing Board shall launch the procedure for choosing the Director of the EIT without delay.~~

Article 7

Staff of the EIT

- ~~1. The staff of the EIT shall consist of personnel employed directly by the EIT under fixed term contracts. The conditions of employment of other servants of the European Communities shall apply to the Director and the Staff of the EIT.~~
- ~~2. Experts may be seconded to the EIT for a limited duration by participating States or other employers.~~

~~The Governing Board shall adopt provisions enabling seconded experts from participating States or other employers to work at the EIT and defining their rights and responsibilities.~~

- ~~3. The EIT shall exercise, with regard to its staff, the powers which are devolved to the authority authorised to conclude the contracts with the staff members.~~

4. ~~A member of staff may be required to make good, in whole or in part, any damage suffered by the EIT as a result of serious misconduct on his/her part in the course of or in connection with the performance of his/her duties.~~

Article 8

Principles for the evaluation and monitoring of KICs

~~The EIT shall organise continuous monitoring and periodic independent evaluations of the outcomes and results of each KIC. These evaluations shall be based on good administrative practice and result-oriented parameters and avoid unnecessary formal and procedural aspects.~~

Article 9

Duration, continuation and termination of a KIC

1. ~~Subject to the outcomes of periodic evaluations and to the specificities of particular fields, a KIC shall normally have a time frame of seven to 15 years.~~
2. ~~The Governing Board may decide to extend the operation of a KIC beyond the period initially set if this is the most appropriate way to achieve the objective of the EIT.~~
3. ~~In the event that evaluations of a KIC show inadequate results, the Governing Board shall take appropriate measures including reduction, modification or withdrawal of its financial support or termination of the agreement.~~

Article 10

Winding up of the EIT

~~In the event of winding up of the EIT, its liquidation shall intervene under the supervision of the Commission in conformity with the laws applicable. The agreements with the KICs and the act establishing the EIT Foundation shall lay down the appropriate provisions in such situation.~~
