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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL

establishing the European Institute of Technology

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. General context

Enhancing the relations and synergies between innovation, research and education – the main drivers of the global knowledge economy - is crucial to boost competitiveness of the EU industry and services and create jobs and sustainable growth in the European Union.

But Europe is falling short in filling the innovation gap and in developing an integrated knowledge triangle – education, research and innovation. There is general agreement that the main weakness faced by the EU in the innovation area lies in its limited capacity to convert knowledge outputs into commercial opportunities. Moreover, most Member States, albeit with different intensities, encounter difficulties in promoting an innovation and entrepreneurial culture in research and education, in developing critical masses of human, financial and physical resources in knowledge and innovation, and in rewarding performance and excellence in ways which attract the best academic staff and researchers. Global competition from traditional competitors and the emerging Asian economies poses a great challenge to the attractiveness of Europe as a Knowledge Area and seriously hinders our ability to strengthen the scientific and technological basis of Community industry and to mobilise its innovation potential.

There is broad consensus in the Union on the need to take urgent action to develop conditions conducive to a better exploitation of the commercial potential of innovation and knowledge policies, as a key to deliver stronger and lasting growth. The revised Lisbon Strategy has therefore placed innovation, research and education activities, the engines of competitiveness, at the top of the Growth and Jobs Agenda. In the framework of the revised Growth and Jobs Strategy, important initiatives have been launched at both national and EU level to strengthen innovation and the links between higher education, research and businesses.

However, there is still untapped potential. To bridge the innovation gap between the EU and its major competitors, we must promote further the integration of the three sides of the knowledge triangle in a mutually-supportive manner.

Member States are primarily responsible for sustaining a strong European industrial and competitive base, whilst facilitating innovation and more and better investment in research, education and training. However, given the nature and scale of the innovation challenge, action at European level may generate additional benefits that may not be achieved by the Member States alone. There is thus a Community dimension that complements, facilitates and coordinates Member States' policies and responses.

There is clearly added value in promoting innovation at Community level, by setting up excellence-driven strategic long-term partnerships in critical areas between all actors involved in the knowledge triangle. Such an initiative would offer European companies a new relationship with education and research. It would also provide a world-class innovation-oriented critical mass at the EU level in the key fields, able to build a global reputation and attractiveness.

1.2. Grounds for the proposal

In February 2005, President Barroso put forward the idea of establishing a European Institute of Technology (the EIT), as part of the mid-term review of the Lisbon strategy. The EIT should be seen as one of the elements of a comprehensive strategy to mobilise knowledge and innovation as a key to growth and employment. It would be a concrete expression of the EU commitment to create an environment that champions innovation and high level excellence in the Union.

The Commission undertook a process of reflection and carried out wide-ranging consultations which resulted in the presentation of a first Communication on 22 February 2006¹. The conclusions of the European Council of 23-24 March 2006 recognises that “ *a European Institute of Technology will be an important step to fill the existing gap between higher education, research and innovation*” and invited the Commission to submit a proposal on further steps.

On 8 June 2006² the Commission issued a second communication, which drew extensively on the outcomes of the consultation process and shed light on a number of specific issues related to the proposed structure and operation of the EIT.

At the European Council of 15-16 June 2006 the Heads of State and Government reaffirmed that “ *the European Institute for Technology (EIT), working with existing national institutions, will be an important step towards filling the existing gap between higher education, research and innovation together with other actions that enhance networking and synergies between excellent research and innovation communities in Europe.*”

The European Council invited the Commission to prepare “ *a formal proposal for its establishment, to be presented in autumn 2006, following consultation with the European Research Council, Member States and stakeholders.*”

As a result of its analysis and extensive consultations with the research and academic communities and the Member States, the Commission has concluded that, in a European context, the best departure point would be a network building approach, but that this should be developed to arrive at an EIT based on truly integrated partnerships.

1.3. Objectives and main content of the proposal

The EIT will contribute to improving the competitiveness base of the Member States by involving partner organisations in integrated innovation, research and education activities at the highest international standards. It will be an integral element of a comprehensive Community strategy aimed to support knowledge and innovation towards the Lisbon goals.

The EIT will encourage and promote innovation through trans- and inter-disciplinary strategic research and education in areas of key economic or societal interest and by exploiting its knowledge outcomes to the benefit of the EU. It will build a ‘critical mass’ of human and physical resources in these fields of knowledge, attracting and retaining private sector investment in innovation, education, and R&D, as well as students at master level, doctoral

¹ COM (2006) 77 final

² COM (2006) 276 final

candidates and researchers at all levels of their careers from both the scientific and business sectors.

The EIT will become a symbol of the integrated European Innovation, Research and Education Area, generating innovations in areas of key economic or societal interest. The ambition is that the EIT becomes a reference for managing innovation, by promoting new forms of collaboration among the type of partner organisations involved in the Knowledge triangle as well as for the modernisation of higher education and research institutions in the EU, both directly, through its activities and outputs, and indirectly through its governance.

The EIT aims also to build a global reputation and provide an attractive environment for the best talents worldwide. Participation in its Knowledge and Innovation Communities will be opened to partner organisations, students and researchers from outside the Union. Moreover, third countries would be entitled to support the objectives of the EIT. By promoting its attractiveness in the global scene, the EIT would become a worldwide flagship of excellence-driven innovation.

The EIT will be based on a new, innovative two-level model of governance, which combines bottom-up autonomy and flexibility in the delivery with top-down strategic guidance, coordination animation and facilitation of dialogue, and dissemination of results and good practice. The EIT will perform its activities through Knowledge and Innovation Communities (KICs). Based on, but going beyond, a network approach, these are envisaged as integrated partnerships or joint ventures (whatever their precise legal form) between the private sector, the research community and excellent teams from research communities and universities whose human, financial and physical resources work together to promote the production, dissemination and exploitation of new knowledge products. To intensify their integrating nature, the KICs shall make use of state-of-the-art research networking and computing infrastructures. A Governing Body, composed of high level members with a proven experience in business, research and education, will be responsible for strategic decisions of the EIT, including the definition of the strategic areas in which KICs will be established, their selection and the overall coordination and evaluation of their activities. The relations between the EIT bodies and the KICs will be based on contractual agreements, which will set out the KICs' rights and obligations, ensure an adequate level of coordination and outline the mechanism for monitoring and evaluation of the KICs activities and outcomes.

Appropriate management and a balanced distribution of intellectual property rights is another indispensable requirement for innovation: without an adequate use and management of inventions, there is no real stimulus to invest in innovation. The EIT will establish guidelines for the management of intellectual property, which will enhance EU innovation capacity, enable the use of intellectual property under appropriate conditions for research and innovative purposes and provide appropriate incentives for the EIT and partners, including individuals involved, KICs and partner organisations, and provide specific incentives for spin-offs and for commercial success.

Education will be a crucial component of the EIT as it is often the missing element in the Knowledge triangle. In the context of a global and open knowledge economy, the EIT will promote the development of courses and doctoral programmes which incorporate the entrepreneurial element and this will be one of the hall-marks of the degrees issued through the KICs. It is important for the success of the EIT that its "brand" should be highly visible on these degrees. In the great majority of cases, it is expected that degree awarding partners will be universities, though some Member States may wish to also grant degree awarding powers

to other partners in a KIC or to the KIC as a whole. The Member States will co-operate in recognising the EIT degrees and diplomas and the EIT will seek to support this process.

1.4. Existing initiatives and European added value of the EIT

Responsibility for education, research and innovation policies rests primarily with the Member States. There are marked variations between EU countries in their approaches to innovation, and many positive national initiatives and developments which should be sustained and reinforced. However, the nature and scale of the innovation challenge suggests that action at the European level is likely to generate additional benefits which may not be achieved through the separate actions of Member States.

The Community has, in any event, been engaged in supporting the Member States in their efforts to improve innovation and the knowledge triangle. In the context of the Lisbon Strategy, the Commission facilitates policy exchanges aimed at identifying best practices and to stimulate better policy making on how to bridge the innovation gap. Several programmes pertaining to the knowledge triangle offer financial support to help EU universities, research centres, enterprises and other actors in the knowledge triangle maximise their contribution to the Growth and Jobs Strategy. The EU operates a number of Community programmes supporting directly or indirectly different aspects of the knowledge triangle, such as the 7th Framework Programme for Research and Technological Development, the Competitiveness and Innovation Programme, the Integrated Life long Learning Programme, and the Structural Funds.

However, no EU initiative has so far fully addressed all three components of the knowledge triangle in a fully integrated and mutually-reinforcing manner; existing instruments address either one section of the knowledge triangle in isolation, or at maximum integrate two, and do so, for the most part by supporting development at the national level. No EU initiative to date has stimulated the development of a European-level world-class institution with the aim of achieving the necessary research, education and innovation oriented excellence and critical mass in specific fields of intervention. This potential is still unfulfilled.

For example, the 7th Framework Programme for Research and Technological Development will be the main financial tool through which the European Union supports research and development activities in all scientific disciplines. The European Research Council is a new funding mechanism of the Framework Programme, aimed at increasing the level of excellence in EU frontier research by providing support for the best European investigator-driven research. The Networks of Excellence are trans-national multi-partner projects grouping together key players in Europe focussing on a durable integration of research capacities on a given research topic. The European Technology Platforms are groups of stakeholders, involving mainly business and research partners, who together informally define a Strategic Research Agenda on a number of strategically important issues with high societal relevance. The proposed Joint Technology Initiatives will be dedicated legal structures, set-up in a limited number of cases, to co-ordinate the mobilisation of large-scale public and private investments and substantial research resources. However, the latter two initiatives focus on integrating business and research partners in the definition and implementation of strategic research agendas, without education as a major component.

The Competitiveness and Innovation Programme brings together notably actions in support of innovation and SMEs. It contributes inter alia to the financing of start-ups and innovation support services, including services for trans-national knowledge and technology transfer, as

well as a wide range of innovation-specific initiatives, such as networks of clusters, sector-specific public-private partnerships and policy coordination activities between national and regional programmes. However, it does not incorporate excellence-driven research and education criteria and activities.

The integrated Life Long Learning Programme will address important needs concerning the modernisation and adaptation of Member States' education and training systems, particularly in the context of the Lisbon goals. It will also bring added value directly to individual citizens participating in its mobility and other cooperation actions. Nevertheless, the programme only tackles the education component of the knowledge triangle.

Finally, the new generation of economic and social cohesion programmes should seek to earmark significant resources for investing in the main drivers of growth and employment. However, these programmes are not primarily driven by excellence, since each country or region will naturally define its policy-mix in the light of the nature and extent of its particular structural deficits and competitive advantages.

To bridge the innovation gap between the EU and its major competitors, it will be necessary to support excellence-driven strategic partnerships at the EU level between actors involved in the three parts of the knowledge triangle, on an inter and trans-disciplinary basis. The European Institute of Technology (**EIT**) will aim to be a world-class operator in its field and to serve as a flagship capable of inspiring better performance by other European actors and networks in the knowledge triangle. In this way, it can complement existing EU and national policy initiatives and financial instruments to bridge the innovation gap between the EU and its major competitors.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

2.1. Consultation of interested parties

The Commission has carried an extensive consultation involving experts, the public, Member States, and European Stakeholders including the Scientific Council of the European Research Council. Three expert meetings were organized in the summer 2005 to discuss the possible goals and structure of the EIT. A public consultation ran from 15 September to 15 November 2005. It received more than 740 contributions, including position papers, from both individuals and organizations. Member States and Stakeholders have been consulted in three rounds of meetings in April, May, and September 2006. As regards stakeholders, an average of 40 European level organizations attended, representing the research, education and business sectors.

General agreement emerged during the consultations on the Commission's background analysis as well as on the need for a concerted effort to improve Community and Member States' competitiveness. The consultation shed light on a number of issues pertaining to the proposed structure of the EIT, notably on the nature and the role of the Governing Board; the functioning of the KICs, the status of EIT staff; the incentives for partners to participate in the EIT and the degrees issue. More specifically, expert voices have argued for a strong involvement of business sector from the outset, and in particular for a demand-led process to define the areas in which KICs should be supported. They have underlined the importance of autonomy for the EIT Governing Board, and the need for a composition with an appropriate balance of academic/research and business members.

2.2. Collection and use of expertise

Extensive use has been made of the Commission's internal analysis on knowledge, innovation and education issues as well as reports prepared by independent experts, in particular the expert groups on research, development and innovation, and external consultants.

2.3. Impact assessment

Five options have been thoroughly examined in the Impact assessment for the establishment and operation of the EIT. Three of the five options considered the EIT as an innovation and a knowledge operator, carrying out activities in the fields of innovation, research and education but differ in their degree on centralisation and top-down/bottom-up organisation model. A fourth option considered the EIT as a funding-labelling body, whilst the fifth one analysed "a status quo" solution.

The option of creating an autonomous organization that pulls together the best resources at Community level and coordinates them within the flexible framework of trans- and interdisciplinary KICs, the so-named "integrated EIT" is the preferred option. This option aims at balancing a series of potentially opposing needs: the need for coordination to ensure synergy and strategic orientation together with the autonomy needed by the KICs to be adaptable and deliver; the need to be independent from external influences to pursue the EIT's own agenda with that to be enough attractive to involve partner organizations; and finally the need to experiment with novel ways to integrate innovation research and education with that of relying and building on existing good practices.

As a new organization, the EIT will also be able to experiment with new organizational and governance models which integrate innovation, education and research, and thereby to fully involve businesses in strategic partnerships; it can provide a dynamic working environment that rewards excellence and thus attract the best talents worldwide. As an open structure focused on individuals and teams rather than on entire institutions, it would be able to involve excellence at any level, in any organization and with a European dimension. It would enable the creation of a critical mass of excellent resources, pooling the best of what already exists and responding to the strategic long-term challenges posed in trans and interdisciplinary fields of potential economic and societal interest for Europe.

At the same time, since it would be based on partner organizations in KICs, it maximizes the EU level impact. Not only these organizations will have the possibility to influence and be involved in innovation, research and education activities at the highest level and with a European scope but individuals will also be carriers of those best practices developed within the EIT, thus contributing to adapting the agendas of partner organizations.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Summary of the proposed action

The proposal consists of a proposal for a Regulation of the European Parliament and of the Council on the establishment of the European Institute of Technology.

3.2. Legal basis

The third paragraph of Article 157 of the Treaty establishing the European Community provides the legal basis for this Regulation. Article 157 (3) allows the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, to decide on specific measures in support of action taken in the Member States aimed at fostering a better exploitation of the industrial potential of policies of innovation, research and technological development.

3.3. Subsidiarity and proportionality principle

In accordance with its legal basis, the proposal will address the challenges identified in a proportionate manner and in accordance with the subsidiarity principle. While the main responsibilities for encouraging innovation lie with the Member States, the proposal establishing the EIT will complement Member States' efforts to enhance competitiveness by (a) developing a new governance model of cooperation on innovation, research and education activities at the highest international standards, thereby fostering the industrial and commercial potential of the knowledge triangle; and (b) focussing on activities where the scale and quality of the resources required can with difficulty be matched by the individual action of a Member State and the integrated activities benefit from a trans-national approach across the Member States.

In accordance with the principle of proportionality, the provisions of this regulation do not go beyond what is necessary to achieve its goals. Moreover, the administrative burden on the EIT has been limited to what is necessary for the Commission to exercise its responsibility for the execution of the Community budget.

3.4. Choice of instruments

The proposal should take the form of a Regulation. The choice of a Regulation reflects the fact that the text creates rights and obligations for the EIT and for the KICs, whose partners cannot at this stage be identified.

4. BUDGETARY IMPLICATIONS

The activities of the EIT and the Knowledge and Innovation Communities (KICs) will be financed from a combination of sources:

1. from external sources including:
 - (a) Member State, regional or local authorities
 - (b) private sources (companies, venture capital, banks, including the EIB);
 - (c) resources resulting from its own activity (eg, from intellectual property rights);
 - (d) resources from the endowments the EIT may accumulate.
2. from Community sources through the budget to the EIT or to the KICs directly, from unallocated margins beneath the ceiling of sub-heading 1A, and through the structural Funds and participation, in accordance with normal procedures, in the 7th

Framework Programme, the Lifelong Learning Programme, the Competitiveness and Innovation Programme.

Resources flowing to the EIT directly would be used: (i) to finance the KICs through a competitive process based on excellence and in accordance with the criteria set by the Governing Board of the EIT; (ii) to finance the running costs of the EIT; or (iii) to contribute to the EIT's endowment

Resources flowing to the *KICs directly* have to be attracted by the KICs and/or their partner organisations, including through the normal procedures applicable to Community programmes and the Structural Funds. They would constitute elements of the offer of the KICs in the competitive process for obtaining resources from the EIT or could be attracted once a KIC has been awarded such resources.

However, the precise arrangements for the funding of the EIT and the KICs will clearly evolve over time. The Commission estimates that the EIT will require front loading from the Community Budget in the start up phase, the objective remaining to maximise in the mid term contributions from external sources. There is also a trade-off between the resources flowing directly to the KICs, including from Community programmes, and the contribution from the Community budget to the EIT directly.

The level of ambition entailed in the proposal means that the total spending of the EIT and the KICs during the period 2007–2013 could be estimated at €2,367.1 million. The financing of this amount can either come directly from the Community budget, directly or indirectly through Community programmes or from other external sources.

The Commission has been in regular contact with the private sector, and believes that there is a reservoir of interest in the EIT which can be tapped, including block grants to the EIT's endowment. In practice, the capacity of the EIT and the KICs to attract outside (particularly business) funding will depend on a credible business plan. Two factors are crucial: (i) the capacity to attract into KICs the most advanced firms and the best universities and research teams; and (ii) the extent to which the Community itself makes a public declaration of trust by committing itself to making available a substantial financial contribution to kick start the process and show openness to consider at a later stage other forms of contributions flowing either to the EIT directly or to the KICs. On this basis a virtuous circle can be generated.

As regards the Community sources, the Commission notes that no specific provision has been made for the EIT in the new legislative proposals included in the negotiations on the Inter-institutional Agreement of 17 May 2006 on budgetary discipline and sound financial management. The Commission proposes therefore to use part of the unallocated margins beneath the ceilings of sub-heading 1A to finance the EIT directly up to an amount of €308,7 million. In parallel, the Commission will continue to explore the possibilities of identifying additional complementary resources including recourse, where necessary, to the provisions of the Inter-Institutional Agreement.

Contributions to the KICs or their partner organisations directly from the 7th Framework Programme, the Lifelong Learning Programme and the Competitiveness and Innovation Programme and Structural Funds in accordance with their respective procedures are possible and expected to constitute an important part of their funding. On the basis of first experience and to the extent that such contributions are deemed necessary and cannot be achieved within

the framework of the existing legal bases, a proposal for necessary adjustment will be considered in due course.

The Structural Funds can play a potentially important role for partner organisations involving eligible Member States, regions, cities or other beneficiaries because many types of expenditure or investment are eligible under the Structural Fund rules and would fall under the earmarking for Lisbon priorities.

As regards external resources, co-financing is expected from the partners in the KICs themselves or to be attracted by them. In addition, a substantial part of the investment in improving the facilities used by KICs could be met by straight contributions from Member States, regional or local authorities or from loans, including from the EIB.

5. ADDITIONAL INFORMATION

5.1. Review clause

The proposal includes a review clause under which the Commission will report on the implementation of the EIT Regulation and make any appropriate proposal for its amendment after five years and every four years thereafter.

5.2. Flexibility

The specific nature and objectives of the EIT require a high level of flexibility in its design and operation. In particular, care should be taken to avoid unnecessary complexities that could undermine its innovation potential and lead to excessive and unattractive bureaucracy in its organisation as well as in the selection and implementation of its activities.

5.3. Staff

The EIT itself will employ a very limited number of staff, estimated at a maximum of 60 at cruising speed, consisting in equal proportions of scientific staff in an advisory role and support staff. These will be personnel directly employed by the EIT under fixed-term contracts, in accordance with the conditions of employment of other servants of the European Community. The EIT may also receive secondees from Member States or the private sector. The Governing Board will adopt the necessary provisions to enable seconded experts to work at the EIT.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL

establishing the European Institute of Technology

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 157(3) thereof,

Having regard to the proposal from the Commission³,

Having regard to the opinion of the European Economic and Social Committee⁴,

Having regard to the opinion of the Committee of the Regions⁵,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁶,

Whereas:

- (1) The Lisbon Growth and Jobs Agenda underscores the need to develop conditions which are attractive to investment in knowledge and innovation in Europe to boost competitiveness, growth and jobs in the European Union.
- (2) Member States are primarily responsible for sustaining a strong European industrial, competitive and innovative base. However, the nature and scale of the innovation challenge in the Union requires also taking action at Community level.
- (3) The Community should provide support to foster innovation, in particular through the 7th Framework Programme for Research and Technological Development, the Competitiveness and Innovation Programme, the integrated Lifelong Learning Programme and the Structural Funds.
- (4) A new initiative at Community level thereafter referred to as “the European Institute of Technology Institute (the EIT)” is needed to complement existing Community and national policies and initiatives by fostering the integration of the knowledge triangle - innovation, research and education- across the EU.
- (5) The European Council of June 2006 invited the Commission to prepare a formal proposal for the establishment of the EIT to be presented in autumn 2006.

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

⁵ OJ C [...], [...], p. [...].

⁶ OJ C 325, 24.12.2002.

- (6) The EIT should have the objective of contributing to the development of the Community and the Member States innovation capacity, by fully involving education, research and innovation activities at the highest standards.
- (7) Through its Governing Board, the EIT should identify strategic long-term challenges for innovation in Europe, particularly in trans- and/or inter-disciplinary areas including those already identified at European level, and should provide a transparent and excellence-based selection process for Knowledge and Innovation Communities (hereinafter referred to as “KICs”) in these fields; membership of the Governing Board of the EIT should balance experience from the business and the research/academic worlds.
- (8) In order to contribute to the competitiveness and to reinforce the international attractiveness of the European economy, the EIT should be able to attract partner organisations, researchers and students from all over the world and to cooperate with third-countries organisations.
- (9) The EIT should primarily operate through excellence-driven long-term strategic partnerships on an inter and/or trans-disciplinary basis of key potential economic and societal interest for Europe. These partnerships shall be selected by the EIT Governing Board and designated as KICs. The relations between the EIT and the KICs shall be based on contractual agreements, which will set out the KICs' rights and obligations, ensure an adequate level of coordination and outline the mechanism for monitoring and evaluation of the KICs activities and outcomes.
- (10) There is a need to support education as an integral but often missing component of a comprehensive innovation strategy. The agreement between the EIT and KICs should provide that the degrees and diplomas awarded through the KICs should be EIT degrees and diplomas. The EIT should promote the recognition of EIT degrees and diplomas in the Member States. All these activities should be carried out without prejudice to Directive 2005/36/EC on the recognition of professional qualifications⁷.
- (11) The EIT should establish guidelines for the management of intellectual property, which should foster the use of intellectual property under appropriate conditions, including through licensing; provide appropriate incentives for the EIT and partners, including individuals involved, KICs and partner organisations as well as for spin-offs and for commercial exploitation. Where activities were funded under the Community Framework Programmes for Research and Technological Development, the rules of those programmes would apply.
- (12) Appropriate provisions must be made to guarantee the liability and transparency of the EIT. Appropriate rules governing its functioning are adopted in the Statutes of the EIT.
- (13) In order to guarantee the functional autonomy and independence of the EIT, it should administer its own budget whose revenue should include a contribution from the Community as well as contributions from Member States and private organisations, national or international bodies or institutions, revenues generated by the EIT's own

⁷ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255.

activities or endowments. The EIT should seek to attract an increasing financial contribution from private organisations.

- (14) The Community budgetary procedure should be applicable as far as the Community subsidy and any other grants chargeable to the general budget of the European Union are concerned.
- (15) This Regulation establishes a financial framework for the period 2008 to 2013 which is to be the principal point of reference for the budgetary authority, within the meaning of point 37 of the Inter-institutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management.
- (16) The EIT is a body set up by the Communities in the sense of Article 185(1) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁸⁾ and should adopt its financial rules accordingly.
- (17) The Governing Board should adopt a rolling triennial work programme that should be examined by the Commission, with regard to its complementarity with Community policies and instruments, and an annual report, including a full statement of accounts, which should be transmitted to the Commission and communicated to the European Parliament, the Council and the Court of Auditors.
- (18) It is appropriate that the European Parliament, the Council and the Commission should be entitled to address an opinion on the EIT work programme, its annual report, including the statement of accounts.
- (19) It is appropriate to review the operation of the EIT at regular intervals.
- (20) Since the objectives of the action cannot be sufficiently achieved by the Member States, and can by reason of scale and of trans-nationality, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality set out in that Article, the Regulation does not go beyond what is necessary to achieve those objectives.

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

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

⁸ OJ L 248, 16.09.2002, p.1.

Article 2

Definitions

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

1. “**Innovation**” means the process and the outcomes of this process through which new ideas respond to societal or economic demand and generate new products, services, or business models that are successfully introduced in an existing market or that are able to create new markets.
2. “**Knowledge and Innovation Community**” means a joint-venture of partner organisations, whatever its precise legal form, selected and designated by the EIT to carry out at the highest level integrated innovation, research and education activities in a specific field.
3. “**University**” means any type of higher education institution which offers recognised degrees or other recognised tertiary level qualifications, irrespective of its denomination in the national context.
4. “**Research organisation**” means any public or private legal entity which undertakes research or technological development as one of its main objectives.
5. “**Partner organisation**” means any organisation which is member of a KIC and may include in particular: universities, research organisations, public or private companies, financial institutions, regional and local authorities, foundations.
6. “**Partnership**” means a group of potential partner organisations who have come together to be a candidate for a KIC.

Article 3

Objective

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

Article 4

Tasks

1. In order to achieve this objective, the EIT shall:
 - (a) identify strategic long-term challenges in fields of key potential economic and societal interest for Europe, which are likely to generate on a long term basis the best innovation added value;

- (b) define its own priorities among those challenges, and select those in which it will take initiatives and invest resources;
 - (c) raise awareness among potential partner organisations;
 - (d) select and designate KICs in the priority fields 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;
 - (e) mobilise the necessary funds from public and private sources and use its resources in accordance with this Regulation. It will in particular seek to raise an increasing proportion of its budget from private sources and from its own resources;
 - (f) promote the recognition of EIT degrees and diplomas in the Member States.
2. A Foundation (hereinafter referred to as "the EIT Foundation"), may be established, particularly at the initiative of the EIT, with the specific objective of promoting and supporting the activities of the EIT.

The EIT may contribute up to 3% of its annual budget to such a Foundation.

Article 5

The Knowledge and Innovation Communities

1. Knowledge and Innovation Communities shall undertake in particular:
- (a) innovation activities and investments fully integrating the research and education dimensions, stimulating the dissemination and exploitation of results.
 - (b) cutting-edge research in fields of key economic and societal interest for European Community with a strong innovation potential
 - (c) education and training activities at master and doctoral level, including the development of innovation related skills and the improvement of managerial and entrepreneurial skills.
 - (d) dissemination of best practices, in particular concerning the governance of innovation oriented organisations and the development of co-operation or partnerships between education/research and business.
2. A partnership will be selected by the EIT to become a KIC on the basis of a competitive, open and transparent process, including the publication of detailed specifications and conditions.

The selection of partnerships shall take particular account of :

- (a) the current and potential innovation capacity within the partnership as well as its excellence in education and research;
- (b) its capacity to achieve the goals set by the EIT;
- (c) financial or in kind contributions brought to the KIC;
- (d) a demonstration of innovation potential, including 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.

The selection shall also take account of:

- (a) an operational structure demonstrating commitment to the EIT and its goals;
 - (b) the capacity to ensure a dynamic, flexible and attractive working environment which rewards both individual and team achievements in terms of innovation, research and education;
 - (c) the basis on which the degrees and diplomas would be awarded including the arrangements to take in account the Community policy on the European Higher Education Area, particularly in terms of compatibility, transparency, recognition and quality of degrees and diplomas;
 - (d) the capacity of the partnership to adapt and take account of changes in their field or in the innovation landscape.
3. The resources of the KICs shall be generated from public and private sources. They may include in particular contributions from and/or channelled through the EIT and contributions from the partner organisations.
 4. The partnerships may include partner organisations from third countries that can make a positive contribution to the objectives of the KICs.

Article 6

Degrees and diplomas

1. The agreement between the EIT and the KICs shall provide that, in the disciplines and fields under which studies, research and innovation activities are carried out through KICs, degrees and diplomas awarded through KICs shall be EIT degrees and diplomas.
2. The EIT shall encourage partner organisations to award joint degrees and diplomas reflecting the integrated nature of the KICs. However, these may also be degrees awarded by one institution as well as double or multiple degrees and diplomas.
3. The Member States cooperate in recognising EIT degrees and diplomas.

Article 7

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

1. The EIT shall carry out its activities independently from national authorities and external pressures. It shall be autonomous in its day to day business as regards the Community Institutions. Members of the EIT bodies shall take the necessary steps to avoid conflicts of interest as between their work on behalf of the EIT and previous or concurrent activities.
2. The activity of the EIT shall be consistent with other action at Community level, in particular in the fields of innovation, research and education.
3. The EIT shall also take appropriate account of policies and initiatives at national and intergovernmental levels.

Article 8

The EIT Bodies

1. The bodies of the EIT shall be:
 - (a) A Governing Board composed of high level members experienced in business, research and education, which shall be responsible for steering and evaluating the activities of the EIT and the KICs, and for all other strategic decisions.
 - (b) An Executive Committee which shall oversee the running of the EIT and take such decisions as are necessary between meetings of the Governing Board.
 - (c) A Director who shall be responsible to the Governing Board for the administrative and financial management of the EIT and shall be the legal representative of the EIT.
 - (d) An Audit Committee which shall advise the Governing Board and the Director on financial and administrative management and control structures within the EIT, on the organisation of financial links with KICs, and on any other subject requested by the Governing Board.
2. The Commission may appoint observers to take part in the meetings of the Governing Board and the Executive and Audit Committees.

Article 9

Management of Intellectual Property

1. The EIT shall define and make public its principles and guidelines for the management of intellectual property. They shall:

- (a) contribute to EU innovation capacity;
 - (b) take account of the specificities of the sector concerned;
 - (c) foster the use of Intellectual Property under appropriate conditions for research and innovative purposes, in particular by defining how Intellectual Property will be shared between the EIT and its partners;
 - (d) provide appropriate incentives for the EIT and partners, including individuals involved, KICs and partner organizations;
 - (e) provide specific incentives for spin-offs and for commercial successes.
2. Partner organisations shall demonstrate in their application to be a KIC an agreement between themselves on the following issues in accordance with the principles and guidelines referred to in paragraph 1:
- (a) ownership, management and protection of research and development results and other outcomes;
 - (b) rights of access to such results and outcomes as well as background;
 - (c) sharing of costs and profits, taking due account of the contributions of the various partner organisations;
 - (d) specific provisions, bonuses or incentives to encourage the development and the use of research and development results and other outcomes, including spin-offs arising from the use of these results.

Article 10

Legal Status

1. The EIT shall have legal personality. In each of the Member State, it shall exercise the widest possible legal powers accorded to legal persons under national legislation. In particular, it may acquire or dispose of tangible or intangible assets 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 11

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.

Contracts entered into by the EIT shall provide that the Court of Justice of the European Communities shall have jurisdiction.

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

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

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

Article 12

Transparency and access to documents

1. The EIT shall ensure that its activities are conducted with a high level of transparency.
2. The EIT shall make public without delay :
 - (a) its rules of procedure
 - (b) its rolling triennial working programme as well as its annual activity report.
3. Without prejudice to paragraphs 4 and 5, the EIT shall not divulge to third parties confidential information it has received for which confidential treatment has been requested and is justified.
4. The members of the EIT bodies shall be subject to the confidentiality requirement referred to in Article 287 of the Treaty.

The information gathered by the EIT in accordance with the present Regulation shall be subject to Regulation (EC) No 45/2001⁹.

5. Regulation (EC) N° 1049/2001¹⁰ shall apply to the documents held by the EIT. The Governing Board shall adopt practical arrangements for applying the said regulation no later than six months after the EIT has been set up.

Article 13

Resources

1. The EIT shall be financed in particular through:

⁹ OJ L 8, 12.01.2001, p. 1.

¹⁰ OJ L 145, 31.05.2001, p. 43.

- (a) contributions from the European Union budget;
- (b) contributions from Member States or public authorities within them;
- (c) contributions from business or private organisations;;
- (d) bequests, donations and contributions from individuals, institutions foundations or any other national bodies;
- (e) revenue generated by the EIT's own activities and outcomes or capital endowments, including those managed by the EIT Foundation or from Intellectual Property Rights;
- (f) contributions from third countries and international bodies or institutions;

These may include contributions in kind.

2. The EIT may apply for and/or channel Community assistance in particular in the framework of Community programmes and funds. In that case, such assistance shall not be attributed for activities already funded through the Community budget.

Article 14

Programming and Accountability

1. The EIT shall adopt :
 - (a) a rolling triennial work programme containing a statement of its major priorities and planned initiatives including an estimate of financing needs and sources. The draft work programme shall be submitted by the Governing Board to the Commission. The Commission shall deliver an opinion within three months with regard to its complementarity with Community policies and instruments. Where the Commission expresses disagreement, the Governing Board shall re-examine the programme and adopt it with any appropriate amendments.
 - (b) an annual report by 30 June each year. The report shall outline the activities conducted by the EIT during the preceding year and assess the results with respect to the objectives and timetable set, the risks associated with the activities carried out, the use of resources and the general operation of the EIT. It shall include a full audited statement of accounts.
2. The rolling triennial work programme and the annual report shall be transmitted to the Commission, which shall communicate them to the European Parliament, the Council and the European Court of Auditors.
3. The European Parliament, the Council or the Commission may address an opinion to the Governing Board of the EIT on any subject covered in the rolling triennial work programme. Where such opinions are addressed to the EIT, the Governing Board shall reply within a period of 3 months, indicating any adjustments in its priorities and planned activities.

Article 15

Evaluation of the EIT

1. The EIT shall ensure that its activities, including those managed through KICs, shall be subject to continuous monitoring and periodic independent evaluation, to ensure both the highest quality of outcome and the most efficient use of resources. The outcomes of the evaluation shall be made public.
2. Within five years from the date of adoption of this Regulation and every four years thereafter, the Commission shall make public an evaluation of the EIT. This shall be based on an independent external evaluation, and shall examine how the EIT fulfils its mission. It shall cover all activities of the EIT and the KICs and shall examine the effectiveness, sustainability, efficiency and relevance of the activities pursued and their relation with Community policies. It shall take into account the views of stakeholders, at both European and national level.
3. The Governing Board shall take due account of the findings of evaluations in the programmes and operations of the EIT.

Article 16

Budgetary Commitments

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

Article 17

Preparation and adoption of the annual budget

1. The expenditure of the EIT shall include the staff, administrative, infrastructure and operational expenses.
2. The financial year shall correspond to the calendar year.
3. The Director shall draw up an estimate of the revenue and expenditure of the EIT for the following financial year and shall forward it to the Governing Board.
4. Revenue and expenditure shall be in balance.
5. The Governing Board shall adopt the draft estimate accompanied by the preliminary rolling triennial work programme, and forward them by 31 March to the Commission.

6. On the basis of the estimate, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the amount of the subsidy to be charged to the general budget.
7. The budgetary authority shall authorise the appropriations for the subsidy to the EIT.
8. The Governing Board adopts the EIT budget, which shall become final following the final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.
9. Any substantial modification to the budget shall follow the same procedure.

Article 18

Implementation and control of the budget

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

Article 19

Protection of the financial interests of the Community

1. With a view to combating fraud, corruption and other illegal acts, Regulation (EC) No 1073/1999¹¹) shall apply to the EIT in its entirety.
2. The EIT shall accede to the Inter-institutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF) (¹²). 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

¹¹ OJ L 136, 31.05.1999, p. 1.

¹² OJ L 136, 31.05.1999, p. 15.

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 20

Review clause

Five years after the adoption of this Regulation and every four years thereafter, the Commission shall report to the European Parliament and to the Council on the implementation of this Regulation and on the operation of the EIT and shall make any appropriate proposals for the amendment of this Regulation.

The Commission reports shall take account of the annual reports from the Governing Board provided for under article 14 and the external evaluations provided for under article 15.

Article 21

Statutes

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

Article 22

Entry into Force

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

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

Done at Brussels,

For the Council
The President

For the European Parliament
The President

ANNEX

Statutes of the European Institute of Technology

Article 1

Composition of the Governing Board

1. The Governing Board shall consist both of appointed members providing a balance between those with business experience and those with academic/research experience (hereafter: “appointed members”) and members elected by and from among the innovation, research, academic, technical and administrative staff, students and doctoral candidates of the EIT and the KICs (hereafter “representative members”).
2. There shall be 15 appointed members. They shall have a 6-year non-renewable term of office. They shall be appointed by the Commission on the basis of proposals from an Identification Committee. This Identification Committee will be composed of 4 independent high level experts appointed by the Commission.
3. The Commission shall have regard to the balance between academic/research and business experience as well as to gender balance and an appreciation of the innovation, research and education environments across the Union.
4. One third of the appointed members shall be replaced every two years. Members whose terms of office expire after the second and fourth years following the initial nomination of the Governing Board shall be drawn by lot.
5. There shall be 4 representative members. They shall have a 3-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 process for the remainder of the mandate.
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 terminate his mandate, a substitute member shall be appointed or elected by the same procedure as the incapacitated member in order to complete his mandate.

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.

2. The Governing Board shall, in particular:
 - (a) approve the EIT strategy as enshrined in its 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) define the fields in which to establish the KICs;
 - (c) adopt rigorous, transparent and user-friendly procedures for selection of KICs; these procedures shall include external expert evaluation and shall cover the relations between the EIT and 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, and those for the Executive and Audit Committees;
 - (g) shall define, with the Commission's agreement, appropriate honoraria for members of the Governing Board and of the Executive and Audit Committees; these honoraria shall be benchmarked against similar provision in the Member States;
 - (h) adopt a procedure for choosing the Executive Committee, the Audit Committee and the Director;
 - (i) appoint the Director, the Accounting Officer, and the members of the Executive Committee and the Audit Committee;
 - (j) establish where appropriate advisory groups which may have a defined duration;
 - (k) promote the EIT globally, so as to raise its attractiveness and make it an "international player" for excellence in education, research and innovation;
 - (l) adopt a code of good conduct regarding conflicts of interest;
 - (m) define principles and guidelines for the management of intellectual property rights.
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 mandate of the Chairperson shall be for a period of 3 years, renewable once.

Article 3

Functioning of the Governing Board

1. The Governing Board shall adopt decisions by simple majority of all its members.
However, decisions under article 2, paragraph 2 (a), (b), (c), (d) and (i) and under paragraph 4 of these statutes shall require a majority of two thirds of all its members.
2. 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.
3. As a transitional provision, the Governing Board shall consist exclusively of appointed members until elections for representative members can be held, after the first KIC has been established.

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 “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 takes 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 EIT’s rolling triennial work programme;
 - (c) oversee the selection procedure for KICs;
 - (d) take any decisions delegated to it by the Governing Board.

Article 5

The Director

1. The Director shall be a person with expertise and high reputation in the areas where the EIT operates. He shall be appointed by the Governing Board for a term of office

of 4 years. The Governing Board may extend that term of office once by 4 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. He shall be accountable to the Governing Board to which he will report 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 the draft strategy and 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) 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 Audit Committee;
 - (f) be responsible for all staff matters;
 - (g) prepare the draft rolling triennial work programme and annual report on the EIT activities and submit them to the Governing Board;
 - (h) submit the draft annual accounts and balance sheet to the Audit Committee, 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.

Article 6

The Audit Committee

1. The Audit Committee shall consist of 5 persons appointed for a period of 4 years by the Governing Board after consultation of the Commission from external advisors with appropriate expertise in the audit and financial control of academic, research and business organisations.
2. The Audit Committee shall perform its duties in complete independence from the other bodies of the EIT.

3. The Audit Committee shall elect its Chairperson.
4. The Audit Committee shall review the provisional accounts and issue recommendations to the Governing Board and the Director..
5. The functions entrusted by Article 185(3) of Regulation (EC, Euratom) N° 1605/2002 to the Commission's internal auditor shall be carried out under the responsibility of the Audit Committee, which shall make appropriate provision.

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 Member States or other employers.

The Governing Board shall adopt provisions enabling seconded experts from Member States or other employers to work at the EIT and defining their rights and responsibilities.
3. The EIT shall exercise, with regards 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 part in the course of or in connection with the performance of his/her duties.

Article 8

Principles guiding the organization and management of the Knowledge and Innovation Communities

1. The Governing Board shall adopt a framework of guidance on which it shall base the conditions and terms of the agreements with the KICs and on financing, monitoring and evaluating their activities. It shall be made public before the selection process for KICs begins.
2. The Governing Board shall in particular provide guidance as to:
 - (a) monitoring and evaluation of the KICs and the participation of the EIT in their governance.
 - (b) integration of the business dimension into research and education activities, including the planning and implementation of educational activities and

research and development efforts; staff and student/researcher mobility between the business and the academic/research sectors; the provision of educational content that takes into account business, management and innovation related issues; the sharing of results and revenues arising from results between partners; dissemination of outcomes and good practices to non-partner organisations including small and medium-sized enterprises.

- (c) how to ensure that curricula and internal practices foster an entrepreneurial and innovation mindset.
3. Within the terms of their agreement with the EIT, KICs shall have substantial autonomy to define their internal organisation as well as their precise agenda and working methods.

Article 9

Principles for the evaluation and monitoring of the Knowledge and Innovation Communities

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 10

Duration, Continuation and Termination of a Knowledge and Innovation Community

1. Subject to the outcomes of periodic evaluations and to the specificities of particular fields, a KIC shall normally have a time-frame of 7-15 years.
2. The Governing Board may exceptionally 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 11

Implementation and control of the budget

1. By 1 March at the latest following each financial year, the EIT's accounting officer shall communicate the provisional accounts together with a report on the budgetary and financial management to the Audit Committee, the Commission's accounting officer and the Court of Auditors.

2. On receipt of the Audit Committee's opinion and the Court of Auditors' observations on the EIT's provisional accounts, the Director shall draw up the EIT's final accounts under his own responsibility and submit them to the Governing Board for an opinion.
3. The Governing board shall deliver an opinion on the EIT's final accounts.
4. By 1 July of the following year at the latest, the Director shall send the final accounts, together with the opinion of the Governing Board, to the Commission, the Court of Auditors, the European Parliament and the Council.
5. The Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He shall also send this reply to the Governing Board.

Article 12

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.

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

European Institute of Technology

2. ABM / ABB FRAMEWORK

Policy Area(s) concerned and associated Activity/Activities:

Sub-Heading 1a: Competitiveness for Growth and Employment

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- B..A lines)) including headings:

02 02 10 "European Institute of Technology"

02 02 10 01 "Governing Structure"

3.2. 02 02 10 02 "EIT activities, in particular Knowledge and Innovation Communities, Grants and Improvement of innovation/research/education capacity..Duration of the action and of the financial impact:

Starting in 2008 with an open end (a review clause foresees a revision of the regulation every 5 years).

The financial impact on the EU General Budget for 2008 – 2013 will be €308.7 million (operational expenditure) for the period 2008 – 2013

3.3. Budgetary characteristics:

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
02021001	Non-comp	Diff	YES	NO	YES	Heading 1a
02021002	Non-comp	Diff	YES	NO	YES	Heading 1a

4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA);

The first lines of the table represent the appropriations to be taken from the margins beneath the ceiling of heading 1A.

EUR million (to 3 decimal places)

Expenditure type	Section no.		2008	2009	2010	2011	2012	2013	2014	Total
Operational expenditure										
Governing Structure										
Commitment Appropriations (CA)	8.1.	a	2.900	5.800	8.700	8.700	8.700	8.700		43.500
Payment Appropriations (PA)		b	2.900	5.800	8.700	8.700	8.700	8.700		43.500
EIT activities, in particular Knowledge and Innovation Communities, Grants and Improvement of innovation/research/education capacity										
Commitment Appropriations (CA)	8.1.	c			41.300	51.300	66.300	106.300		265.200
Payment Appropriations (PA)		d			33.040	49.300	63.300	98.300	21.260	265.200
TOTAL REFERENCE AMOUNT										
Commitment Appropriations	8.1	a+c	2.900	5.800	50.000	60.000	75.000	115.000		308.700
Payment Appropriations		b+d	2.900	5.800	41.740	58.000	72.000	107.000	21.260	308.700
Administrative expenditure <u>not</u> included in reference amount										
Human resources and associated expenditure (NDA)	8.2.5.	e	0.594	0.594	0.324	0.324	0.324	0.324		2.484
Administrative costs, other than human resources and associated costs, not included in reference	8.2.6.	f	0.300	0.050	0.050	0.050	0.550	0.050		1.050

amount (NDA)										
Total indicative financial cost of intervention										
TOTAL CA including cost of Human Resources		a+c++e+f	3.794	6.444	50.374	60.374	75.874	115.374		312.234
TOTAL PA including cost of Human Resources		b+d+e+f	3.794	6.444	42.114	58.374	72.874	107.374	21.260	312.234

Co-financing details

The activities of the EIT and the Knowledge and Innovation Communities (KICs) will be financed from a combination of sources:

1. from external sources including:
 - (a) Member State, regional or local authorities
 - (b) private sources (companies, venture capital, banks, including the EIB);
 - (c) resources resulting from its own activity (eg, from intellectual property rights);
 - (d) resources from the endowments the EIT may accumulate.
2. from Community sources through the budget to the EIT or to the KICs directly, from unallocated margins beneath the ceiling of sub-heading 1A, and through the structural Funds and participation, in accordance with normal procedures, in the 7th Framework Programme, the Lifelong Learning Programme, the Competitiveness and Innovation Programme.

Resources flowing to the EIT directly would be used: (i) to finance the KICs through a competitive process based on excellence and in accordance with the criteria set by the Governing Board of the EIT; (ii) to finance the running costs of the EIT; or (iii) to contribute to the EIT's endowment

Resources flowing to the *KICs directly* have to be attracted by the KICs and/or their partner organisations, including through the normal procedures applicable to Community programmes and the Structural Funds. They would constitute elements of the offer of the KICs in the competitive process for obtaining resources from the EIT or could be attracted once a KIC has been awarded such resources.

Table 8.1 sets out the broad breakdown as between the Community budget and other sources.

However, the precise arrangements for the funding of the EIT and the KICs will clearly evolve over time. The Commission estimates that the EIT will require front loading from the Community Budget in the start up phase, the objective remaining to maximise in the mid term contributions from external sources. There is also a trade-off between the resources flowing directly to the KICs, including from Community programmes, and the contribution from the Community budget to the EIT directly.

The level of ambition entailed in the proposal means that the total spending of the EIT and the KICs during the period 2007–2013 could be estimated at €2,367.1 million. The financing of this amount can either come directly from the Community budget, directly or indirectly through Community programmes or from other external sources.

The Commission has been in regular contact with the private sector, and believes that there is a reservoir of interest in the EIT which can be tapped, including block grants to the EIT's endowment. In practice, the capacity of the EIT and the KICs to attract outside (particularly business) funding will depend on a credible business plan. Two factors are crucial: (i) the capacity to attract into KICs the most advanced firms and the best universities and research teams; and (ii) the extent to which the Community itself makes a public declaration of trust by committing itself to making available a substantial financial contribution to kick start the process and show openness to consider at a later stage other forms of contributions flowing either to the EIT directly or to the KICs. On this basis a virtuous circle can be generated.

As regards the Community sources, the Commission notes that no specific provision has been made for the EIT in the new legislative proposals included in the negotiations on the Inter-institutional Agreement of 17 May 2006 on budgetary discipline and sound financial management. The Commission proposes therefore to use part of the unallocated margins beneath the ceilings of sub-heading 1A to finance the EIT directly up to an amount of €308,7 million. In parallel, the Commission will continue to explore the possibilities of identifying additional complementary resources including recourse, where necessary, to the provisions of the Inter-Institutional Agreement.

Contributions to the KICs or their partner organisations directly from the 7th Framework Programme, the Lifelong Learning Programme and the Competitiveness and Innovation Programme and Structural Funds in accordance with their respective procedures are possible and expected to constitute an important part of their funding. On the basis of first experience and to the extent that such contributions are deemed necessary and cannot be achieved within the framework of the existing legal bases, a proposal for necessary adjustment will be considered in due course.

The Structural Funds can play a potentially important role for partner organisations involving eligible Member States, regions, cities or other beneficiaries because many types of expenditure or investment are eligible under the Structural Fund rules and would fall under the earmarking for Lisbon priorities.

As regards external resources, co-financing is expected from the partners in the KICs themselves or to be attracted by them. In addition, a substantial part of the investment in improving the facilities used by KICs could be met by straight contributions from Member States, regional or local authorities or from loans, including from the EIB.

4.1.2. *Compatibility with Financial Programming*

- X Proposal is compatible with existing financial programming.
- X Proposal will entail reprogramming of the relevant heading in the financial perspective.
- Proposal may require application of the provisions of the Interinstitutional Agreement¹³ (i.e. flexibility instrument or revision of the financial perspective).

4.1.3. *Financial impact on Revenue*

- X Proposal has no financial implications on revenue

4.2. **Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.**

Annual requirements	Year					
	2008	2009	2010	2011	2012	2013
Total number of human resources	5,5	5,5	3	3	3	3

5. **CHARACTERISTICS AND OBJECTIVES**

5.1. **Need to be met in the short or long term**

See Impact Assessment and Explanatory Memorandum

5.2. **Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy**

See Impact Assessment and Explanatory Memorandum

5.3. **Objectives, expected results and related indicators of the proposal in the context of the ABM framework**

See Impact Assessment and Explanatory Memorandum

During the period of the forthcoming financial perspectives (2007 – 2013), the operational objectives of the EIT are to establish 6 Knowledge and Innovation Communities (KICs) and a Governing structure for the coordination of the overall system. The KICs will perform innovation, research and teaching activities by integrating contributions from partner organisations.

For the sake of the estimates, the proposal is based on the assumption that at a cruising speed, a KIC could involve about 1000 staff: about 100 Academic staff, 300 researchers and 600

¹³ See points 19 and 24 of the Interinstitutional agreement.

technical and supporting staff. A KIC would host approx. 600 Master students and 400 PhD candidates at any given time.

The Governing Structure would be strictly limited in size and would build up over time to a total of 30 scientific and senior staff and 30 support staff.

Indicators:

Since innovation and research activities need a minimum duration of time before producing their first outcomes, extensive use will be made in the initial period of establishment of the EIT of input indicators such as the number of established Knowledge Communities in comparison with the business plan; implementation of the budget with regards to the objectives (% of money actually used); percentage of financial contribution originating from non Commission sources; number and increase in the number of candidate students at Master and PhD levels.

In the long run, these indicators should be supplemented by a set of outcome oriented indicators such as the actual number and evolution of the number of patents generated in EU and the revenue generated from IPRs (share in the overall budget of the EIT), the number and amount of contracts with business; initial salary for newly recruited graduates (Master and PhD); average duration to find a first job for newly graduates (Master and PhD).

5.4. Method of Implementation (indicative)

- Centralised Management***
 - directly by the Commission
 - indirectly by delegation to:
 - executive Agencies
 - bodies set up by the Communities as referred to in art. 185 of the Financial Regulation
 - national public-sector bodies/bodies with public-service mission
- Shared or decentralised management***
 - with Member states
 - with Third countries
- Joint management with international organisations (please specify)***

Relevant comments:

The EIT will be a body set up by the Communities as referred to in art. 185 of the Financial Regulation, but it will not be an “Agency” in the generally accepted sense of that word. Its internal rules (eg on financial or personnel issues) will need to reflect its objectives and the need for sufficient operational flexibility to be attractive to its (business and research/academic) partners.

6. MONITORING AND EVALUATION

An extended impact assessment for which background work was done by external consultants during summer 2006, has been carried out which integrates the requirements for an impact assessment and for an ex-ante evaluation. The results of this exercise may be found in the Impact Assessment report.

The EIT activities will be subject of continuous monitoring and periodic independent evaluations, to ensure both the highest quality of outcome and the most efficient use of resource. The Governing Board will define the modalities to ensure an appropriate evaluation.

Moreover, the Commission will carry out an independent external evaluation of the EIT activities within five years from the date of adoption of the EIT Regulation and every four years thereafter, which will examine how the EIT fulfils its mission. It will cover all activities of the EIT and the KICs will look at the effectiveness, relevance of the activities pursued and their relation with Community policies.

7. ANTI-FRAUD MEASURES

According to the legal instrument, the Commission shall have the right to ensure that the financial interests of the Community are duly protected. 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. The European Anti-fraud Office (OLAF) will be entitled to carry out internal investigation in the EIT bodies and the Governing Board will adopt the necessary measures to help OLAF carry out internal investigations.

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost and resource (scenario of 6 KICs in 2013)

Costs	2008	2009	2010	2011	2012	2013	Total
EIT governing structure	2.900	5.800	8.700	8.700	8.700	8.700	43.500
Knowledge and Innovation Communities	0.000	0.000	220.800	303.600	441.600	662.400	1,628.400
Grants for Master students and PhD candidates	0.000	0.000	5.600	20.600	45.200	73.800	145.200
Improvement of innovation/research/education capacity	0.000	0.000	100.000	150.000	150.000	150.000	550.000
Total costs	2.900	5.800	335.100	482.900	645.500	894.900	2,367.100
Resources							
Local authorities and Member States, Enterprises, EIB loans, Venture Capital, <i>(directly to KICs or directly to EIT depending on source)</i>	0.000	0.000	47.080	113.040	133.740	233.100	526,960
Community budget (programmes: FP7, CIP, LLL, Structural Funds: ERDF, ESF) <i>(directly to KICs)</i> ¹⁴			238.020	309.860	436.760	546.800	1,531.440
Community budget (unallocated margin, subheading 1A) <i>(directly to EIT)</i>	2.900	5.800	50.000	60.000	75.000	115.000	308.700
Total resources	2.900	5.800	335.100	482.900	645.500	894.900	2,367.100

¹⁴ Awarded in accordance with respective programme procedures

8.2. Administrative Expenditure

8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using additional resources (number of posts/FTEs)					
		Year 2008	Year 2009	Year 2010	Year 2011	Year 2012	Year 2013
Officials or temporary staff ¹⁵ (XX 01 01)	A*/AD	4	4	2	2	2	2
	B*, C*/AST	1,5	1,5	1	1	1	1
Staff financed ¹⁶ by art. XX 01 02							
Other staff ¹⁷ financed by art. XX 01 04/05							
TOTAL		5,5	5,5	3	3	3	3

The needs for human and administrative resources shall be covered within the allocation granted to the managing DG in the framework of the annual allocation procedure.

8.2.2. Description of tasks deriving from the action

Commission services will basically carry out two main categories of tasks:

- in year 2008 and 2009, they will concentrate on supporting the establishment of the central governing structure of the EIT and preparing its internal rules (financial rules, personnel rules, etc). They will also support the Identification Committee in identifying the future Governing Board members.

- once the EIT and the first Knowledge Communities are established, the Commission will concentrate on the monitoring of the EIT (budgetary issues, annual reports, multi annual evaluation) as defined in the legal instrument.

8.2.3. Sources of human resources (statutory)

- Posts currently allocated to the management of the programme to be replaced or extended
- Posts pre-allocated within the APS/PDB exercise for year 2007 – 2 posts
- Posts to be requested in the next APS/PDB procedure 2008 – 2 posts

¹⁵ Cost of which is NOT covered by the reference amount

¹⁶ Cost of which is NOT covered by the reference amount

¹⁷ Cost of which is included within the reference amount

- X Posts to be redeployed using existing resources within the managing service (internal redeployment) 1.5 posts
- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

8.2.4. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

Type of human resources	Year 2008	Year 2009	Year 2010	Year 2011	Year 2012	Year 2013
Officials and temporary staff* (XX 01 01)	0.594	0.594	0.324	0.324	0.324	0.324
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)						
Total cost of Human Resources and associated costs (NOT in reference amount)	0.594	0.594	0.324	0.324	0.324	0.324

*Reference costs: 108.000 Euros pa

8.2.5. *Other administrative expenditure not included in reference amount*

EUR million (to 3 decimal places)

	Year 2008	Year 2009	Year 2010	Year 2011	Year 2012	Year 2013	TOTAL
XX 01 02 11 01 – Missions	0.100	0.050	0.050	0.050	0.050	0.050	0.350
XX 01 02 11 02 – Meetings & Conferences	0.200						0.200
XX 01 02 11 03 – Committees	0	0	0	0	0	0	
XX 01 02 11 04 – Studies & consultations					0.500		0.500
XX 01 02 11 05 - Information systems	0	0	0	0	0	0	
2 Total Other Management Expenditure (XX 01 02 11)	0.300	0.050	0.050	0.050	0.550	0.050	1.050
3 Other expenditure of an administrative nature (specify including reference to budget line)	0	0	0	0	0	0	
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)	0.300	0.050	0.050	0.050	0.550	0.050	1.050