



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.6.2007  
COM(2007) 356 final

2007/0122 (CNS)

Proposal for a

**COUNCIL REGULATION**

**Setting up the "ENIAC Joint Undertaking"**

(presented by the Commission)

{SEC(2007) 851}  
{SEC(2007) 852}

## **EXPLANATORY MEMORANDUM**

### **1) CONTEXT OF THE PROPOSAL**

- **Grounds for and objectives of the proposal**

Nanoelectronics is a strategic technology for Europe that will have a major impact on industrial competitiveness and growth. Nanoelectronics underpins the future development of major high-tech manufacturing sectors which are key to the EU's industrial strength and which account for R&D investment of around €20bn per year. They are significant drivers of innovation and growth and are crucial to the EU's future competitiveness and societal development. The mean value of electronic components in innovative products is growing, adding extra functionality and intelligence to products. The EU faces risks of a steady loss of competitiveness in nanoelectronics as a result of a fragmentation of its research efforts, increasing technological complexity, and competitive pressures from other world regions. At risk are not just short term opportunities for new products and services but loss of the ability to innovate in those sectors with the greatest potential for value creation and growth in the long-term. Investment in research is also necessary to meet the technological challenges and to nurture and retain the best researchers.

The Specific Programme "Cooperation"<sup>1</sup> of the European Community Seventh Framework Programme (2007-2013) for research, technological development and demonstration activities introduces the Joint Technology Initiatives (JTIs) as a new way of realising public-private partnerships in research at European level. JTIs are an expression of the EU's strong commitment to coordinating research efforts. The aims are to achieve greater strategic focus by supporting common ambitious research agendas in areas that are crucial for competitiveness and growth, to assemble and coordinate at EU level a critical mass of research drawing on all sources of R&D investment, whether public or private, and to provide a tighter coupling between research and innovation, contributing so to the realisation of the European Research Area and Europe's competitiveness goals. The Specific Programme "Cooperation" identifies nanoelectronics as one of the areas where a JTI could have a particular relevance.

JTIs arise primarily from the work of European Technology Platforms (ETPs). A limited number of ETPs have achieved such an ambitious scale and scope that they require the substantial mobilisation of public and private resources to implement important elements of their Strategic Research Agendas. JTIs are proposed as an effective means of meeting the needs of these ETPs. The objective of this proposal is to set up a Joint Undertaking to implement a JTI in nanoelectronics (ENIAC JTI). The ENIAC JTI aims to create a single, Europe-wide R&D programme that will help EU industry achieving world leadership in nanoelectronics. This JTI will combine, for the first time, a critical mass of national, EU and private resources within one coherent, flexible and efficient legal framework; it will also ramp up R&D investment in Europe by providing incentives for industry and Member States to increase their R&D expenditure.

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<sup>1</sup> OJ L 412, 30.12.2006, p.1

- **General context**

The market size of the nanoelectronics business chain (that is the manufacturers, but also a large set of related industries such as the equipment and material suppliers, the designers, etc.) represents currently nearly 1% of the world wide GDP with a strong annual average growth rate (around 15%). However, the industries it affects (such as telecommunications, consumer products and education, multimedia services, transport, healthcare, security/safety, environment) count for an overall weight that is several times higher (estimated at ~5000 billion €). An effective initiative at EU level will have therefore an impact of significant size due to the leveraging effect of this enabling technology. The nanoelectronics sector is also a significant generator of highly qualified jobs and a contributor to sustainable development.

Europe has world leading capabilities, but is under threat from Asia and the USA if production expansion to develop future generations of integrated circuits is not addressed with significant investment.

In the last 10 years, European research programmes and Eureka have supported large efforts to help bring micro/nanoelectronics research and manufacturing in Europe on a par with the competitors world wide. Given the high costs involved and the scarcity of resources available, a coordinated approach among the various actors will enable European industries to remain at the forefront. It is important that the best synergies in terms of scientific objectives and funding priorities be established at European R&D level to meet effectively the future goals of industrial exploitation and greatest benefit for the citizens.

- **Existing provisions in the area of the proposal**

There are no existing provisions in the area of the proposal.

- **Consistency with the other policies and objectives of the Union**

The Seventh Framework Programme (FP7) is an important point of departure for Europe. It reflects a consensus that to equip itself as a competitive and dynamic knowledge-based economy Europe must redouble its efforts to increase and get better returns from its R&D investments. In particular there is a need for greater strategic focus, for assembling a critical mass of research in key areas, for better coordination in research, and for tighter coupling between research and innovation.

The implementation of this JTI will contribute directly to the Lisbon competitiveness objective and the Barcelona targets for research spending. The results of the ENIAC JTI in key application areas will also indirectly contribute to other EU policies such as the environment (monitoring and management), transport (safety), energy (management and control), health care (methodologies and instruments).

The ENIAC JTI will address any potential public health, safety, environmental and consumer risks upfront in accordance with Community policies in these areas. Specifically, the European Action “Nanosciences and nanotechnologies: An action plan for Europe 2005-2009” (COM(2005) 243) and the work of the Scientific Committee on Emerging and Newly Identified Health Risks (SCENHIR) provide the

framework within which the ENIAC JTI will operate.

The ENIAC Joint Undertaking is responsible for managing a research, development and innovation programme of European interest, which shall be considered as a Project of common European interest in the sense of Article 87(3)(b) of the Treaty.

The proposed initiative is part of a broad ambitious Community strategy to tackle the innovation gap which includes, inter alia, the proposal to establish a European Institute of Technology (EIT).

## **2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

- **Consultation of interested parties**

### Consultation methods, main sectors targeted and general profile of respondents

Extensive consultations by the Commission took place with stakeholders in the nanoelectronics domain following the creation of the ENIAC Technology Platform in June 2004 and its several working groups, and with the national public authorities represented in the "Mirror Group" gathering representatives from 21 Member States and Associated Countries. Those groups met regularly over the last 2 years. The relevant topics for this Joint Undertaking such as the Strategic Research Agenda, the governance and operational aspects have been publicly presented and discussed in major events such as the 6-monthly ENIAC Forum meetings, the Information Society Technologies Conference IST-2006 (Helsinki) and the public presentations of the SRA in September 2005 and 2006. An independent consultant was involved in several ad-hoc meetings with the stakeholders in order to assess the potential impact of the initiative, mainly in terms of policy objectives and efficiency gains.

For economic analyses, the consultation has drawn primarily on market data, in particular through a study that provided a detailed picture of the effectiveness of R&D to increase the competitiveness of European industry in the sector of nanoelectronics with respect to world wide trends and programmes, published in December 2005. An independent consultant was tasked to derive the potential economic impact of the initiative in December 2006.

### Summary of responses and how they have been taken into account

The continuous involvement of the various players in the elaboration process of the initiative meant that the specimen quotations could be validated and comments and suggestions could be gathered along the way and taken into account when drawing up the proposal.

- **Collection and use of expertise**

### Scientific/expertise domains concerned

Experts in nanoelectronics R&D were involved in drafting the Strategic Research Agenda.

### Methodology used

The experts met in dedicated workshops and presented their work in public conferences.

#### Main organisations/experts consulted

The main European semiconductor companies and their suppliers and users were consulted, as well as the leading-edge independent research organisations in Europe.

#### Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has not been mentioned.

- **Impact assessment**

The proposed Regulation has been subject to a Commission Impact Assessment (attached to the proposal).

Its main findings are that the ENIAC JTI will allow to (a)share the increasing costs of the R&D activities and infrastructures in order to maintain Europe in line with the international competition, (b)take the leadership in diversifying applications of semiconductor technologies and applying them to alternative innovative markets, (c)manage breakthroughs in electronic design, in order to fill the ever-widening gap between what is achievable in technologies and what can economically be designed and tested, and (d)provide European SMEs with effective and efficient tools to support them in their innovation process. The JTI also increases the leverage effect of the Community's contribution on R&D effort (national and private) and provides a more efficient and reliable R&D and innovation framework that removes the budget uncertainty, streamlines procedures and shortens time-to-contract with respect to the baseline option. This will in turn broaden the participation and increase the number of new partners in the R&D activities.

A further benefit is that national money spent through the ENIAC JTI will be allocated through common European procedures and work plans, achieving a similar impact to EU-level disbursements and one that is much higher than in the baseline option.

### **3) LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

The proposal consists of a Council regulation on the establishment of the ENIAC Joint Undertaking.

- **Legal basis**

The legal basis of the proposal is Article 171 of the Treaty establishing the European Community. The Joint Undertaking will be a Community body and the implementation

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<sup>2</sup> Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the budget of the European Communities, OJ L 357, 31.12.2002 p. 72; corrigendum in OJ L 2, 7.12.2003, p. 39.

of its budget is therefore subject to discharge by the European Parliament<sup>2</sup>, taking however into account the specificities resulting from the nature of JTIs as public-private partnerships and in particular from the private sector contribution.

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason(s).

In front of the major challenges facing the European industry and economy, Europe's research landscape is fragmented and unable to supply a convincing response. At national level, many funding programmes co-exist. In some countries the relevant nanoelectronics research activities are spread over several (sometimes disconnected) programmes, and for some others it is not possible to identify whether there are relevant activities in the area. Several countries provide additional funding through the Eureka inter-governmental scheme.

The current fragmented situation in Europe is ineffective and inefficient. Without a focused and coherent programme, European efforts in nanoelectronics research will continue in a scattered and unstructured manner. Progress will be held back by lack of coordination of industrial R&D objectives, duplication of effort, unnecessary bureaucracy, and suboptimal use of limited research funding.

Therefore, action by individual Member States is not ideal to meet the huge challenges of the nanoelectronics sector. No single existing mechanism will indeed be able in the coming years to gather all the necessary expertise and financial means to take a leader position in the world wide competitive race. A strong public-private partnership is required to leverage the indispensable financial and technical means to master the complexity of the ever escalating pace of innovation in this sector.

Community action will better achieve the objectives of the proposal for the following reason(s).

Building critical mass, through involvement in an initiative with strong contributions from industry and the Member States. The JTI is expected to become a centre of gravity for Europe and a pole for external interactions.

Mobilising resources, through significant leveraging of EU resources against national and industry funds.

Testing a novel instrument for industrial research that is capable of making a concrete contribution to the Lisbon strategy and to the Barcelona objectives by having Community, national and private funds work in synergy. If successful, this novel instrument is expected to be put into use in other domains requiring a public-private partnership.

"Communautarisation" of part of nationally-funded research, making thus a strong contribution to the development of the European Research Area.

Risk minimisation, with the EU retaining control of its contribution in a way that ensures minimal financial risk.

Cost-effective implementation, with the JTI having a light administrative infrastructure paid for by industry, retaining just the decision-making and financial capabilities.

Focusing effect: to focus R&D agendas more effectively than the current dispersed national programmes and bottom-up Eureka clusters. The proposal will help build a European Research Area (ERA) in nanoelectronics.

Greater flexibility: to provide a mechanism to mobilise Member States that are ready to act towards common goals in a flexible way according to their available resources and promptly adapting to the rapidly evolving needs of the area, so helping to build critical mass for nanoelectronics research in Europe.

Integration of national efforts: to pursue objectives that have been defined at European level within the SRA of the relevant Technology Platform, and to carry out project selection according to a common, single European process and according to criteria published in advance.

Leveraging effect: to provide incentives to industry and Member States, attracting additional national support and leveraging greater industry funding. This will directly contribute to the Barcelona objectives.

Programme efficiency: to combine the strengths of transnational (Eureka) and European programmes while overcoming their weaknesses. In particular, to avoid uncertainty in national budgets (compared to Eureka) and the duplication of evaluation and monitoring procedures. The adoption of common procedures should allow a shorter time-to-contract while avoiding additional red tape for participants.

Economic efficiency: to reduce the time-to-project, allowing industry to execute projects more quickly and hence accelerate the time-to-market for research results. Faster product development, fewer lost market opportunities and higher productivity can bring huge benefits for companies in a situation where windows for action are shrinking.

Economic impact: to achieve the technological objectives (leadership in nanoelectronics); simpler and more efficient procedures (lower overheads for participants and greater concentration of research resources); and shorter time to contract (improved competitiveness and growth in jobs).

Safe, integrated and responsible approach: Bringing all stakeholders together will reinforce that developments will address any potential public health, safety, environmental and consumer risks upfront.

The ENIAC JTI will permit the alignment of hundreds of millions of national funds to the commonly agreed SRA and to the Commission's own strategy. It will also provide the Commission with a strong voice on how and where these national moneys are spent, a role that it does not currently have. The work that will be undertaken under the JTI should not be considered as a transfer of Eureka activities under a new umbrella. It is rather a full partnership of all stakeholders (EC, Member States and

industry/research) that is geared towards progressively achieving true European-level integration, while at the same time exercising a new way of governance promising less red tape.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons:

The proposed Joint Undertaking is the only simple option that satisfies the constraints and requirements for achieving the objectives of the action. It is a structure that is durable over time, has legal personality and provides a clear legal framework for the collaboration and participation of R&D actors, national authorities and the Community in a public-private partnership.

The participation of all stakeholders is of paramount importance. As the initiative focuses on industrial objectives of key relevance for economic competitiveness, industrial participation is necessary to guide the elaboration of the research priorities and innovation policies. Member States' involvement is needed to mobilise the national funding that constitutes the bulk of the public R&D effort in the area. Finally, the Community has a key role to play in driving the integration process, balancing the different interests of the partners, and adequately monitoring the use of the Community financial contribution.

The proposed action will achieve the necessary integration at EU level while providing flexibility for participation by Member States. It will keep at national level a maximum of decisions such as financial commitments for the Calls for proposals and using, wherever possible, national procedures for concluding grant agreements, processing cost claims, payments and audits.

The Joint Undertaking will establish a lean structure for decision-making and financial and administrative operations, thanks to the use of existing procedures at national level. Such implementation is not disruptive for national administrations, uses contractual models that are familiar to the R&D actors and is particularly cost-effective: the running costs are expected to be below 1.5% of the overall costs of the R&D activities launched by the Joint Undertaking.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason(s).

The creation of an undertaking in which the Community participates requires a Council regulation.

#### **4) BUDGETARY IMPLICATION**

The budgetary assessment indicates maximum Community expenditure of €450m over the initial period of the ENIAC Joint Undertaking (up to 2017), which would need to

be committed before 31 December 2013 when the FP7 budget comes to an end. An initial 42.5 m€ is to be committed in 2008.

## **5) ADDITIONAL INFORMATION**

### **• Simplification**

The proposal provides for simplification of administrative procedures for public authorities (EU or national), simplification of administrative procedures for private parties.

Compared to the current transnational funding arrangements under Eureka, the procedures of the Joint Undertaking will:

- o Remove the budgetary uncertainty, through binding Member States commitments under the Regulation.
- o Remove duplication in evaluation/monitoring, where currently different procedures are applied at national level.
- o Enable shorter time-to-contract.
- o Remove unnecessary red-tape for participants.

These simplifications will impact on research stakeholders in the following ways:

- o Applicants' time and costs in preparing proposals will be reduced significantly compared to the current application arrangements under Eureka.
- o In addition, a proportion of proposals collapse through not getting national funding and are lost. This would be avoided under the JTI scheme.
- o Further savings can be expected through the streamlined reporting procedures that will apply during project execution. Under the JTI, projects will adhere to a single procedure rather than the different national procedures which apply under Eureka.

Proposal for a

## **COUNCIL REGULATION**

### **Setting up the "ENIAC Joint Undertaking"**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 171 and 172 thereof,

Having regard to the proposal from the Commission<sup>3</sup>,

Having regard to the opinion of the European Parliament<sup>4</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>5</sup>,

Whereas:

- (1) Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013)<sup>6</sup>, hereinafter the Seventh Framework Programme, provides for a Community contribution for the establishment of long term public-private partnerships in the form of Joint Technology Initiatives (hereinafter JTIs) to be implemented through Joint Undertakings within the meaning of Article 171 of the Treaty. These JTIs stem from the work of European Technology Platforms, already set up under the Sixth Framework Programme, and cover selected aspects of research in their field. They should combine private-sector investment and European public funding, including funding from the Seventh Framework Programme.
- (2) Council Decision No 971/2006/EC of 19 December 2006 concerning the specific programme "Cooperation" implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013)<sup>7</sup> underlines the need for ambitious pan-European public-private partnerships to speed up the development of major technologies by large research actions at Community level including, in particular, JTIs.
- (3) The Lisbon Growth and Jobs Agenda underscores the need to develop favourable conditions for investment in knowledge and innovation in the Community to boost competitiveness, growth and jobs.

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<sup>3</sup> OJ [...], [...], [...],

<sup>4</sup> OJ [...], [...], [...],

<sup>5</sup> OJ [...], [...], [...],

<sup>6</sup> OJ L 412, 30.12.2006, p.1.

<sup>7</sup> OJ L 400, 30.12.2006, p.86 and OJ L 54, 22.02.2007, p.30.

- (4) In its conclusions of 25 and 26 November 2004, the Council encouraged the Commission to further elaborate the concepts of Technology Platforms and JTIs. It underlined that such initiatives could contribute to coordinating overall Community research efforts with a view to achieving synergies with the activities of existing schemes such as EUREKA taking into account their important contribution to Research and Development (hereinafter R&D).
- (5) European companies and other R&D organisations active in the field of Nanoelectronics took the lead in establishing the European Technology Platform on Nanoelectronics (hereinafter the ENIAC Technology Platform) under the Sixth Framework Programme. The ENIAC Technology Platform developed a Strategic Research Agenda based on an extensive consultation with public and private stakeholders. The Strategic Research Agenda identified the priorities in the Nanoelectronics domain and recommended directions for a JTI in this field.
- (6) The JTI on Nanoelectronics responds to the Commission Communications of 6 April 2005 on “Building the ERA of knowledge for growth”<sup>8</sup> and of 20 July 2005 on “Common Actions for Growth and Employment: The Community Lisbon Programme”<sup>9</sup>, which call for a new and more ambitious approach to large-scale public-private partnerships in fields of major interest for European competitiveness identified through dialogue with industry.
- (7) The JTI on Nanoelectronics responds to the need for support for pervasive Information and Communication Technologies as identified in the Report “*Creating an Innovative Europe*” of January 2006. This report also commends the ENIAC Joint Technology model for combining national and Community funding within a clear legal structure and in a harmonised and synchronous manner.
- (8) The JTI on Nanoelectronics should create a sustainable public-private partnership and increase and leverage private and public investment in the sector of nanoelectronics in Europe, which for the purpose of this Regulation includes the Member States and Countries associated with the Seventh Framework Programme. The JTI on Nanoelectronics should also achieve effective coordination and synergy of resources and funding from the Framework Programme, industry, national R&D programmes and intergovernmental R&D schemes, thus contributing to strengthen Europe’s future growth, competitiveness and sustainable development. Finally, its objective should be to foster collaboration between all stakeholders such as industry, national authorities, academic and research centres pulling together and focusing the research effort.
- (9) The JTI on Nanoelectronics should define a commonly agreed research agenda (hereinafter the Research Agenda), closely following the recommendations of the Strategic Research Agenda developed by the ENIAC Technology Platform. This Research Agenda should identify and regularly review research priorities for the development and adoption of key competences for Nanoelectronics across different application areas in order to strengthen European competitiveness and allow the emergence of new markets and societal applications.

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<sup>8</sup> COM(2005) 118 final.

<sup>9</sup> COM(2005) 330 final.

- (10) The JTI on Nanoelectronics should address two objectives which are a substantial part of the Strategic Research Agenda of the ENIAC Technology Platform: enhancing the further integration and miniaturisation of devices, and increasing their functionalities. It should deliver new materials, equipment and processes, new architectures, innovative manufacturing processes, disruptive design methodologies and new packaging and 'systemizing' methods. It should drive and be driven by innovative high-tech applications in the area of communication and computing, transport, health care and wellness, energy and environmental management, security and safety, and entertainment.
- (11) The ambition and scope of the stated objectives of the JTI on Nanoelectronics, the scale of the financial and technical resources that need to be mobilised, and the need to achieve effective coordination and synergy of resources and funding, call for action to be taken by the Community. Therefore, it is necessary to set up a Joint Undertaking (hereinafter the "ENIAC Joint Undertaking") under Article 171 of the Treaty as a legal entity responsible for the implementation of the JTI on Nanoelectronics. To ensure the appropriate management of R&D activities initiated under the Seventh Framework Programme, the ENIAC Joint Undertaking should be set up for a period ending on 31 December 2017, which may be extended.
- (12) The ENIAC Joint Undertaking should be a body set up by the Communities and discharge for the implementation of its budget should be given by the European Parliament<sup>10</sup>, on the recommendation of the Council. However, account should be taken of the specificities resulting from the nature of JTIs as public-private partnerships and in particular from the private sector contribution to the budget.
- (13) The ENIAC Joint Undertaking should discharge commitments pursuant to international agreements. To this end, it should be considered as an international organisation within the meaning of Article 22 of Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal service sectors<sup>11</sup>, and of Article 15 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts<sup>12</sup>.
- (14) The objectives of the ENIAC Joint Undertaking should be pursued by pooling resources from the public and private sectors to support R&D activities in the form of projects. To that end, the ENIAC Joint Undertaking should be able to organise competitive calls for proposals for projects to implement parts of the Research Agenda. The R&D activities should respect fundamental ethical principles applicable in the Seventh Framework Programme.
- (15) The ENIAC Joint Undertaking will ensure and promote a safe, integrated, and responsible approach to nanoelectronics keeping with the high safety standards already

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<sup>10</sup> Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the budget of the European Communities, OJ L 357, 31.12.2002 p. 72; corrigendum in OJ L 2, 7.1.2003, p. 39.

<sup>11</sup> OJ L 134, 30.4.2004, p. 1. Directive as last amended by Directive 2006/97/EC (OJ L 363, 20.12.2006, p. 107).

<sup>12</sup> OJ L 134, 30.4.2004, p. 114. Directive as last amended by Directive 2006/97/EC (OJ L 363, 20.12.2006, p. 107).

established in the nanoelectronics industry and in accordance with public health, safety, environmental and consumer Community policies<sup>13,14</sup> and the European Action “Nanosciences and nanotechnologies: An action plan for Europe 2005-2009”<sup>15</sup>.

- (16) The founding members of the ENIAC Joint Undertaking should be the European Community, [...*Member States*...], and AENEAS, an association representing companies and other R&D organisations active in the field of Nanoelectronics in Europe. The ENIAC Joint Undertaking should be open to new members.
- (17) The rules for the organisation and operation of the ENIAC Joint Undertaking should be laid down in the Statutes of the ENIAC Joint Undertaking.
- (18) A letter of commitment to contribute to the establishment and implementation of the ENIAC Joint Undertaking as defined in its Statutes has been signed by AENEAS.
- (19) The R&D activities should be partially supported by the Community's contribution to the ENIAC Joint Undertaking.
- (20) Public funding for the R&D activities following competitive calls for proposals published by the ENIAC Joint Undertaking should consist of national financial contributions from the ENIAC Member States and a financial contribution from the ENIAC Joint Undertaking. The financial contribution of the ENIAC Joint Undertaking should be provided at a percentage of the R&D costs incurred by participants in projects. This percentage should be equal for all participants in projects in any given call for proposals.
- (21) Over the duration of the ENIAC Joint Undertaking, the R&D organisations participating in projects should provide resources that equal or exceed the total public funding for the R&D activities.
- (22) The need to ensure stable employment conditions and equal treatment of staff, and in order to attract specialised scientific and technical staff of the highest calibre, requires the application of the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities, ("the Staff Regulation") to all staff recruited by the ENIAC Joint Undertaking.
- (23) In view of the fact that the ENIAC Joint Undertaking is not designed to fulfil an economic purpose, it is necessary for the performance of its tasks that the Protocol on the Privileges and Immunities of the European Communities applies to the ENIAC Joint Undertaking and its staff.
- (24) As a body endowed with legal personality, the ENIAC Joint Undertaking should be accountable for its actions. Where relevant, the Court of Justice of the European

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<sup>13</sup> Treaty Articles 152 and 153 respectively require that a “high level of human health protection [...] be ensured in the definition and implementation of all Community policies and activities” and that “consumer protection requirements [...] be taken into account in defining and implementing other Community policies and activities.”

<sup>14</sup> Treaty Article 174 has, among others, the objectives of “preserving, protecting and improving the quality of the environment”, “prudent and rational utilisation of natural resources” and “promoting measures at international level to deal with regional or worldwide environmental problems.”

<sup>15</sup> COM(2005) 243); <http://cordis.europa.eu/nanotechnology/actionplan.htm>.

Communities should be competent to resolve any disputes arising from the activities of the Joint Undertaking.

- (25) The Commission and the ENIAC Joint Undertaking should regularly report on its progress to the Council and to the European Parliament.
- (26) The ENIAC Joint Undertaking should adopt, subject to prior consent from the Commission, specific financial rules which take into account its specific operating needs arising, in particular, from the need to combine Community and national funding to support R&D activities in an efficient and timely manner. They should be based on the principles laid down in Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the budget of the European Communities<sup>16</sup>
- (27) Appropriate measures should be taken to prevent irregularities and fraud, and the necessary steps should be taken to recover funds lost, wrongly paid or incorrectly used in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests<sup>17</sup>, Council Regulation (EC, Euratom) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities<sup>18</sup>, and Regulation (EC) No 1073/1999 of the European Parliament and of the Council concerning investigations concluded by the European Anti-Fraud Office (OLAF)<sup>19</sup>.
- (28) The intellectual property policy should promote knowledge creation and exploitation.
- (29) The Commission and AENEAS should take all necessary preparatory measures for the establishment of the ENIAC Joint Undertaking.
- (30) Since the objective of the proposed action, namely the establishment of the ENIAC Joint Undertaking, cannot be sufficiently achieved by the Member States due to the lack of the appropriate legal and organisational framework at European level and can therefore be better achieved at Community level as only the Community action can establish a legal and organisational R&D framework that allows the effective pooling of resources from R&D undertakers, the Commission and national governments, 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, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective

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<sup>16</sup> OJ L 357, 31.12.2002 p. 72.

<sup>17</sup> OJ L 312, 23.12.1995, p.1.

<sup>18</sup> OJ L 295, 15.11.1996, p.2.

<sup>19</sup> OJ L 136, 31.05.1999, p.1.

HAS ADOPTED THIS REGULATION:

*Article 1*  
*Establishment of a Joint Undertaking*

1. For the implementation of the Joint Technology Initiative (hereinafter JTI) on Nanoelectronics, a Joint Undertaking within the meaning of Article 171 of the Treaty (hereinafter the "ENIAC Joint Undertaking") is hereby set up for a period ending on 31 December 2017. This period may be extended by a revision of this Regulation.
2. The ENIAC Joint Undertaking shall have legal personality. In the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those States. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.  
It shall be considered as an international organisation within the meaning of Article 22(c) of Directive 2004/17/EC and of Article 15 (c) of Directive 2004/18/EC.
3. The seat of the ENIAC Joint Undertaking shall be located in Brussels, Belgium.
4. The Statutes of the ENIAC Joint Undertaking are set out in the Annex.

*Article 2*  
*Objectives*

The ENIAC Joint Undertaking shall contribute to the implementation of the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) and the Theme "Information and Communication Technologies" of the Specific Programme "Cooperation" implementing the Seventh Framework Programme (2007-2013) of the European Community for research, technological development and demonstration activities. It shall, in particular:

- (a) define and implement a Research Agenda for the development of key competences for Nanoelectronics across different application areas in order to strengthen European competitiveness and sustainability and allow the emergence of new markets and societal applications;
- (b) support the activities required for the implementation of the Research Agenda (hereinafter R&D activities), notably by awarding funding to participants in selected projects following competitive calls for proposals;
- (c) promote a public-private partnership aiming at mobilising and pooling Community, national and private efforts, increasing overall R&D investments in the field of Nanoelectronics, and fostering collaboration between the public and private sectors;
- (d) ensure the efficiency and durability of the JTI on Nanoelectronics;
- (e) achieve synergy and co-ordination of European R&D efforts in the field of Nanoelectronics including the progressive integration into the ENIAC Joint Undertaking of the related activities in this field currently implemented through intergovernmental R&D schemes (EUREKA).

*Article 3*  
*Members*

1. The founding members of the ENIAC Joint Undertaking shall be:
  - (a) the European Community, represented by the Commission;
  - (b) [...*Member States*...];
  - (c) the AENEAS association (hereinafter “AENEAS”).
2. Provided that they subscribe to the objectives laid down in Article 2, the following entities may become members of the ENIAC Joint Undertaking:
  - (a) other Member States and Associated Countries with the Seventh Framework Programme;
  - (b) any non-EU, non-candidate and non-associated country (hereinafter "Third Country") pursuing R&D policies or programmes in the area of Nanoelectronics;
  - (c) any legal entity capable of making a substantial financial contribution to the achievement of the objectives of the ENIAC Joint Undertaking.
3. The founding members as referred to in paragraph 1 and new members as referred to in paragraph 2 shall be hereinafter referred to as "Members".
4. Member States and Associated Countries that are members of the ENIAC Joint Undertaking shall be hereinafter referred to as "ENIAC Member States".

*Article 4*  
*Sources of financing*

1. The activities of the ENIAC Joint Undertaking shall be jointly funded through financial contributions paid in instalments and in-kind contributions from its Members to support the running costs and the R&D activities.
2. The running costs of the ENIAC Joint Undertaking for the period ending on 31 December 2017 shall be supported by the following contributions:
  - (a) a financial contribution from AENEAS of up to EUR 20 million or up to 1% of the overall costs of Projects, whichever figure is higher, but not exceeding EUR 30 million;
  - (b) a financial contribution from the Community of up to EUR 10 million;
  - (c) in-kind contributions from ENIAC Member States.
3. The R&D activities of the ENIAC Joint Undertaking for the period ending on 31 December 2017 shall be supported by the following contributions:
  - (a) a financial contribution from the Community of up to EUR 440 million to finance Projects;

- (b) financial contributions from ENIAC Member States made in the form of annual commitments to be disbursed directly to R&D organisations participating in the R&D projects;
  - (c) in-kind contributions by R&D organisations to bear their share of the necessary cost of carrying out the projects.
4. The maximum Community contribution to the ENIAC Joint Undertaking shall be EUR 450 million paid from the budget appropriations allocated to the Theme "Information and Communication Technologies" of the Specific Programme "Cooperation" implementing the Seventh Framework Programme.
  5. The arrangements for the Community financial contribution shall be established by means of a general agreement and annual financial agreements to be concluded between the Commission, on behalf of the Community, and the ENIAC Joint Undertaking.
  6. The financial contributions of the Members to the ENIAC Joint Undertaking shall be paid through partial instalments.
  7. Any new Member of the ENIAC Joint Undertaking other than Member States or Associated Countries shall make a financial contribution to the ENIAC Joint Undertaking.

#### *Article 5* *Bodies*

The Bodies of the ENIAC Joint Undertaking shall be:

- (a) the Governing Board;
- (b) the Public Authorities Board;
- (c) the Industry and Research Committee;
- (d) the Executive Director.

#### *Article 6* *Financial Regulation*

1. The ENIAC Joint Undertaking shall adopt specific financial rules based on the principles of the Regulation (EC, Euratom) No2343/2002. They may depart from that regulation where the specific operating needs of the ENIAC Joint Undertaking so require and subject to prior consent from the Commission.
2. The ENIAC Joint Undertaking shall have its own internal audit capability.

#### *Article 7* *Funding of R&D activities*

1. Public funding for projects selected following calls for proposals published by the ENIAC Joint Undertaking shall consist of the national financial contributions from

the ENIAC Member States and/or the financial contribution from the ENIAC Joint Undertaking.

2. The Community contribution to the ENIAC Joint Undertaking shall be used for funding Projects following competitive calls for proposals. The following legal entities shall be eligible for receiving such funding:
  - (a) legal entities established in the ENIAC Member States having concluded a grant agreement for such project with the corresponding national authority following the award procedures of the ENIAC Joint Undertaking;
  - (b) legal entities established in Member States or Associated Countries that are not Members of the ENIAC Joint Undertaking. In this case, such States may establish administrative arrangements with the ENIAC Joint Undertaking to enable the participation of the companies and R&D organisations located in their State.
3. The calls for proposals launched and published by the ENIAC Joint Undertaking shall specify the overall budget available for each call. This budget shall indicate the amounts committed at national level by each ENIAC Member State and the estimated amount of the ENIAC Joint Undertaking financial contribution. The calls shall state the evaluation criteria in relation to the objectives of the call.
4. The ENIAC Joint Undertaking financial contribution to the budget of each call shall be equivalent to 55% of the total amount committed by the ENIAC Member States, unless the Public Authorities Board decides otherwise at the proposal of the representative of the Community.
5. Calls, evaluation and selection of proposals shall respect the following rules:
  - (a) calls for proposals launched by the ENIAC Joint Undertaking shall be open to participants established in ENIAC Member States and in any other Member State of the European Union or Associated Country;
  - (b) consortia of participants in project proposals submitted in response to these calls shall include at least three non-affiliated entities established in at least three ENIAC Member States;
  - (c) the evaluation and selection process shall ensure that allocation of the ENIAC Joint Undertaking public funding follows the principles of excellence and competition;
  - (d) following the evaluation of proposals, the Public Authorities Board shall establish a ranked list of proposals on the basis of clear evaluation criteria and their collective contribution towards achieving the objectives of the call;
  - (e) the Public Authorities Board shall decide on the selection of proposals and the allocation of public funding to selected proposals up to the limit of the budgets available, taking into account any national eligibility criteria. This decision shall be binding for ENIAC Member States without any further evaluation or selection processes.

6. Funding of projects shall respect the following rules:
- (a) the financial contribution of the ENIAC Joint Undertaking to participants in projects shall be provided at a percentage of the total costs, defined when appropriate by the funding authorities issuing the grant agreements, incurred for implementing the project. This percentage shall be determined on a yearly basis by the ENIAC Joint Undertaking and be up to 16.7%. This percentage shall be equal for all participants in projects arising from any given call for proposals;
  - (b) ENIAC Member States shall establish grant agreements with participants in projects in accordance with their national rules, in particular as regards eligibility criteria and other necessary financial and legal requirements. When applicable, national financial contributions from ENIAC Member States shall be disbursed directly to participants in projects according to the national grant agreements. ENIAC Member States shall undertake best efforts to synchronise the establishment of grant agreements and to disburse their financial contributions in a timely manner.

*Article 8*  
*Staff Regulation*

- 1. The Staff Regulations of Officials of the European Communities, the Conditions of Employment of Other Servants of the European Communities and the rules adopted jointly by the European Community institutions for the purpose of applying these Staff Regulations and Conditions of Employment shall apply to the staff of the ENIAC Joint Undertaking and its Executive Director.
- 2. In respect of its staff, the ENIAC Joint Undertaking shall exercise the powers conferred on the appointing authority by the Staff Regulations of Officials of the European Communities and on the authority empowered to conclude contracts by the Conditions of Employment of Other Servants of the European Communities.
- 3. The Governing Board shall, in agreement with the Commission, adopt the necessary implementing measures, in accordance with provisions provided for in article 110 of the Staff Regulations of Officials of the European Communities, and the Conditions of Employment of Other Servants of the European Communities.
- 4. The Governing Board may adopt provisions to allow experts from Members to be seconded to the ENIAC Joint Undertaking.

*Article 9*  
*Privileges and Immunities*

The Protocol on the Privileges and Immunities of the European Communities shall apply to the ENIAC Joint Undertaking and its staff.

*Article 10*  
*Liability*

- 1. The contractual liability of the ENIAC Joint Undertaking shall be governed by the law applicable to the relevant contractual provisions.

2. In the case of non-contractual liability, the ENIAC Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its staff in the performance of their duties.
3. Any payment by the ENIAC Joint Undertaking in respect of the liability referred to in paragraphs 1 and 2 and the costs and expenses incurred in connection therewith shall be considered as expenditure of the ENIAC Joint Undertaking and shall be covered by the resources of the ENIAC Joint Undertaking.

*Article 11*  
*Jurisdiction of the Court of Justice and applicable law*

1. The Court of Justice shall have jurisdiction concerning:
  - (a) any dispute between the Members which relates to the subject matter of this Regulation and/or the Statutes referred to in Article 1;
  - (b) any arbitration clause contained in agreements and contracts concluded by the ENIAC Joint Undertaking;
  - (c) actions brought against the ENIAC Joint Undertaking, including decisions of its Bodies, under the conditions provided for in Articles 230 and 232 of the Treaty;
  - (d) disputes related to compensation for damage caused by the staff of the ENIAC Joint Undertaking in the performance of their duties.
2. For any matter not covered by this Regulation or by other acts of Community law, the law of the State where the seat of the ENIAC Joint Undertaking is located shall apply.

*Article 12*  
*Report, evaluations and discharge*

1. The Commission shall present to the European Parliament and the Council an annual report on the progress achieved by the ENIAC Joint Undertaking.
2. No later than 31 December 2010 and 31 December 2015, the Commission shall conduct interim evaluations of the ENIAC Joint Undertaking with the assistance of independent experts. This evaluation shall cover the quality and efficiency of the ENIAC Joint Undertaking and progress towards the objectives set. The Commission shall communicate the conclusions thereof, accompanied by its observations to the European Parliament and the Council.
3. By 31 March 2018, the Commission shall conduct a final evaluation of the ENIAC Joint Undertaking with the assistance of independent experts. The results of the final evaluation shall be presented to the European Parliament and the Council.
4. Discharge for the implementation of the budget of the ENIAC Joint Undertaking shall be given by the European Parliament, upon recommendation of the Council, in accordance with a procedure provided for in the financial rules of the ENIAC Joint Undertaking.

### *Article 13*

#### *Protection of the financial interests of the members and anti-fraud measures*

1. The ENIAC Joint Undertaking shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls.
2. In case of irregularities, the members shall reserve the right to recover amounts unduly spent, including by a reduction or a suspension of subsequent contributions to the ENIAC Joint Undertaking.
3. For the purposes of combating fraud, corruption and other illegal acts, Regulation (EC) No1073/1999 shall apply.
4. The Commission and/or the Court of Auditors may, if necessary, carry out on-the-spot checks among the recipients of the ENIAC Joint Undertaking's funding and the agents responsible for its allocation. To that end, the ENIAC Joint Undertaking shall ensure that grant agreements and contracts provide for the right of the Commission and/or of the Court of Auditors to carry out the appropriate controls and, in the event of the detection of irregularities, to impose dissuasive and proportionate penalties.
5. The European Anti-Fraud Office (OLAF) shall enjoy the same powers in respect of the ENIAC Joint Undertaking and its staff as it enjoys in respect of Commission departments. As soon as the Joint Undertaking is established, it shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by OLAF<sup>20</sup>. The Governing Board shall approve that accession and adopt the necessary measures to facilitate internal investigations conducted by OLAF.

### *Article 14*

#### *Confidentiality*

The ENIAC Joint Undertaking shall ensure the protection of sensitive information, whose disclosure could damage the interests of its members.

### *Article 15*

#### *Intellectual Property*

The ENIAC Joint Undertaking shall adopt rules governing the dissemination and use of research results which ensure that, where appropriate, intellectual property generated in R&D activities under this Regulation is protected, and that research results are used and disseminated.

### *Article 16*

#### *Preparatory actions*

The Commission and AENEAS shall take all necessary preparatory actions for the setting up of the ENIAC Joint Undertaking until its bodies are fully operational.

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<sup>20</sup> OJ L 136, 31.5.1999, p. 15.

*Article 17*  
*Support from the host State*

A host agreement shall be concluded between the ENIAC Joint Undertaking and Belgium concerning office accommodation, privileges and immunities and other support to be provided by Belgium to the ENIAC Joint Undertaking.

*Article 18*

This Regulation shall enter into force on the 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*

**ANNEX**  
**STATUTES**  
**OF THE**  
**ENIAC JOINT UNDERTAKING**

*Article 1*  
*Name, location, duration, legal personality*

1. The name of the Joint Undertaking shall be: "ENIAC Joint Undertaking".
2. Its seat shall be located in Brussels, Belgium.
3. The ENIAC Joint Undertaking shall be established as from the publication of these Statutes in the Official Journal of the European Communities for a period ending on 31 December 2017.
4. This period may be extended by amending these Statutes in accordance with the provisions of Article 22, taking into account the progress made towards achieving the objectives of the ENIAC Joint Undertaking and provided that financial sustainability is ensured.
5. The ENIAC Joint Undertaking shall have legal personality. In all the Member States of the European Community it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those States. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.

*Article 2*  
*Objectives and tasks*

1. The objective of the ENIAC Joint Undertaking shall be to contribute to the implementation of the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) and the Theme "Information and Communication Technologies" of the Specific Programme "Cooperation" implementing the Seventh Framework Programme (2007-2013) of the European Community for research, technological development and demonstration activities. It shall, in particular:
  - (a) define and implement a "Research Agenda" for the development of key competences for Nanoelectronics across different application areas in order to strengthen European competitiveness and sustainability, and allow the emergence of new markets and societal applications. Activities for the implementation of the Research Agenda are hereinafter referred to as "R&D activities";
  - (b) support the implementation of the R&D activities notably by awarding funding to participants in selected projects<sup>21</sup> following competitive calls for proposals;

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<sup>21</sup> "Project" shall mean a research and/or development project that is selected by the ENIAC Joint Undertaking following competitive calls for proposals and thereafter partly funded by the ENIAC Joint Undertaking

- (c) promote a public-private partnership aimed at mobilising and pooling Community, national and private efforts, increasing overall R&D investments in the field of Nanoelectronics, and fostering collaboration between the public and private sectors;
- (d) ensure the efficiency and durability of the JTI on Nanoelectronics;
- (e) achieve synergy and coordination of European R&D efforts into the field of Nanoelectronics including the progressive integration in the ENIAC Joint Undertaking of the related activities in this field currently implemented through intergovernmental R&D schemes (Eureka).

2. The main tasks of the ENIAC Joint Undertaking shall be the following:

- (a) to ensure the establishment and sustainable management of the JTI on Nanoelectronics;
- (b) to define and make any necessary adjustment to the Multiannual Strategic Plan including the Research Agenda as referred to in Article 13;
- (c) to define and carry out Annual Implementation Plans for executing the Multiannual Strategic Plan as referred to in Article 13;
- (d) to initiate calls for proposals, to evaluate proposals, and award funding to Projects selected through open, transparent and effective procedures, within the limits of available funds;
- (e) to develop close cooperation and ensure coordination with European, national and trans-national activities, bodies and stakeholders, aiming at fostering a fertile innovation environment in Europe and better synergies and exploitation of research and development results in the area of Nanoelectronics;
- (f) to monitor progress towards the objectives of the ENIAC Joint Undertaking, and make any necessary adjustments in the light of developments occurring during its implementation;
- (g) to manage communication and dissemination of the activities of the ENIAC Joint Undertaking subject to confidentiality obligations;
- (h) to publish information on the Projects, including the name of the participants and the amount of the financial contribution of the ENIAC Joint Undertaking;
- (i) to carry out any other activity needed to achieve the objectives referred to in paragraph 1.

### *Article 3*

#### *Members*

1. The founding members of the ENIAC Joint Undertaking (hereinafter "Founding Members") shall be:

- (a) the European Community, represented by the Commission;

- (b) [...*Member States*...];
  - (c) the AENEAS association (hereinafter “AENEAS”), an association registered under French law (registration No ....) with its registered office in Paris (France), acting as a representative of companies and other R&D actors operating in the field of Nanoelectronics in Europe.
2. Provided that they subscribe to the objectives as described in Article 2(1), the following entities may become members of the ENIAC Joint Undertaking:
    - (a) other Member States and Associated Countries with the Seventh Framework Programme;
    - (b) any non-EU, non-candidate and non-associated country (hereinafter "Third Country") pursuing R&D policies or programmes in the area of Nanoelectronics;
    - (c) any other legal entity capable of making a substantial financial contribution to the achievement of the objectives of the ENIAC Joint Undertaking.
  3. The Founding Members and new members as referred to in paragraph 2 shall hereinafter be referred to as "Members".
  4. Member States and Associated Countries members of the ENIAC Joint Undertaking shall hereinafter be referred to as "ENIAC Member States". Each ENIAC Member State shall appoint its representative in the bodies of the ENIAC Joint Undertaking and designate the national entity or entities responsible for fulfilling its obligations with respect to implementation of the activities of the ENIAC Joint Undertaking.
  5. The ENIAC Member States and the Commission shall hereinafter be referred to as the "public authorities" of the ENIAC Joint Undertaking.

#### *Article 4*

##### *Accession and changes to membership*

1. Any new membership application to the ENIAC Joint Undertaking shall be addressed to the Governing Board in accordance with Article 6 (2)(a).
2. Member States of the European Union or Associated Countries that are not Founding Members of the ENIAC Joint Undertaking shall become Members upon notification to the Governing Board of their written acceptance of these Statutes and of any other provisions governing the functioning of the ENIAC Joint Undertaking.
3. Any application for membership of the ENIAC Joint Undertaking by Third Countries shall be considered by the Governing Board, which shall make a recommendation to the Commission. The Commission may make a proposal to amend this Regulation on the accession of the Third Country, subject to the successful completion of negotiations with the ENIAC Joint Undertaking.
4. Decisions of the Governing Board on accession of any other legal entity or recommendations of the Governing Board on the accession of Third Countries shall

be made taking into account the relevance and potential added value of the applicant for the achievement of the objectives of the ENIAC Joint Undertaking.

5. Any Member may withdraw from the ENIAC Joint Undertaking. Withdrawal shall become effective and irrevocable six months after notification to the other Members following which the former Member shall be discharged from any obligations other than those already existing previous to its withdrawal.

*Article 5*  
*Bodies of the ENIAC Joint Undertaking*

The Bodies of the ENIAC Joint Undertaking shall be:

- (a) the Governing Board;
- (b) the Public Authorities Board;
- (c) the Industry and Research Committee;
- (d) the Executive Director.

*Article 6*  
*Governing Board*

1. Composition and decision-making process
  - (a) The Governing Board shall consist of representatives of the Members of the ENIAC Joint Undertaking and the Chairperson of the Industry and Research Committee.
  - (b) Each Member of the ENIAC Joint Undertaking shall appoint its representatives and a lead delegate who shall hold the voting rights of the Member in the Governing Board. The Chairperson of the Industry and Research Committee shall have no voting rights.
  - (c) Voting rights for AENEAS and the public authorities shall be equal and shall amount in total to at least 90% of the total votes. The initial distribution of the voting rights shall be 50% for AENEAS and 50% for public authorities.
  - (d) The distribution of the votes for the public authorities shall be established annually in proportion to the funds they have committed to Projects in the past two financial years. The Commission shall hold a minimum of 10% of the votes.
  - (e) For the first financial year, and any subsequent financial years in which two or fewer ENIAC Member States have committed public funds to Projects in the previous financial years, the Commission shall hold one third of the votes corresponding to public authorities. The remaining two thirds shall be distributed equally amongst the ENIAC Member States.

- (f) Voting rights for any new Member that is not a Member State of the European Union or an Associated Country shall be determined by the Governing Board before accession of this Member to the ENIAC Joint Undertaking.
- (g) Decisions shall be adopted by a majority of at least 75% of votes unless otherwise explicitly stated in these Statutes. The Community shall hold a veto right on all decisions taken by this Board relating to the use of its financial contribution, the methodology for assessing the in-kind contributions, any amendments to these Statutes and the Financial Regulation of the ENIAC Joint Undertaking.
- (h) The representatives shall not be personally liable for actions undertaken in their capacity as representatives in the Governing Board.

## 2. Role and tasks

The Governing Board shall have overall responsibility for the operations of the ENIAC Joint Undertaking and shall oversee the implementation of its activities.

The Governing Board shall in particular:

- (a) assess applications and decide or recommend changes in membership in accordance with Article 4;
- (b) decide on the termination of the membership of any Member that is in default of its obligations and has not remedied within a reasonable period set by the Executive Director, notwithstanding the provisions of the Treaty ensuring compliance with Community law;
- (c) approve the Financial Regulation of the ENIAC Joint Undertaking according to Article 12 of these Statutes;
- (d) adopt proposed amendments to the Statutes in accordance with Article 22;
- (e) approve the Multiannual Strategic Plan including the Research Agenda;
- (f) supervise the overall activities of the ENIAC Joint Undertaking;
- (g) supervise progress in implementing the Multiannual Strategic Plan;
- (h) approve the Annual Implementation Plan and the Annual Budget Plan, including the staff establishment plan;
- (i) approve the Annual Activity Report and the Annual Accounts and balance sheet;
- (j) appoint, dismiss or replace the Executive Director, provide guidance to the Executive Director, and monitor the Executive Director's performance;
- (k) take responsibility for the appropriate provision of the function entrusted by Article 185(3) of Regulation (EC, Euratom) N° 1605/2002 to the Commission's internal auditor;

- (l) adopt the necessary implementing measures for the Staff Regulation of the ENIAC Joint Undertaking in accordance with Article 17;
- (m) establish committees or working groups to carry out specific tasks as necessary;
- (n) adopt its rules of procedure in accordance with paragraph 3 of this Article;
- (o) assign any task not specifically allocated to one of the other Bodies of the ENIAC Joint Undertaking.

### 3. Rules of procedure

- (a) The Governing Board shall meet at least twice a year, normally at the seat of the ENIAC Joint Undertaking.
- (b) The meetings of the Governing Board shall be chaired by the Chairperson of the Industry and Research Committee.
- (c) Unless otherwise decided by the Governing Board, the Executive Director shall participate in the meetings.
- (d) Until the Governing Board has adopted its own rules of procedure the meetings shall be convened by the Commission.
- (e) The quorum of the Governing Board shall be constituted by the Commission, AENEAS and at least three ENIAC Member States.

## *Article 7* *Public Authorities Board*

### 1. Composition and decision-making process

- (a) The Public Authorities Board shall consist of the public authorities of the ENIAC Joint Undertaking.
- (b) Each public authority shall appoint its representatives and a lead delegate who shall hold the voting rights in the Public Authorities Board.
- (c) One third of the voting rights in the Public Authorities Board shall be assigned to the Community; the remaining two thirds shall be allocated to the other members of the Public Authorities Board on an annual basis in proportion to their financial contribution to the activities of the ENIAC Joint Undertaking for that year in accordance with Article 10(5) and with an upper limit for any given member of 50% of the total voting rights in this Board.
- (d) If less than three ENIAC Member States have communicated to the Executive Director their financial contribution according to Article 10 (5), the Community shall hold one third of the votes and the remaining two thirds shall be distributed equally amongst the ENIAC Member States.
- (e) Decisions shall be taken by at least 60% of total votes.

- (f) The representative of the Community shall have a veto right on all issues concerning the use of its own contribution to the ENIAC Joint Undertaking.

## 2. Role and tasks

The Public Authorities Board shall:

- (a) ensure that the principles of fairness and transparency are properly applied in the allocation of public funding to participants in Projects;
- (b) approve the Annual Work Programme upon proposals from the Industry and Research Committee, including the budgets available for calls for proposals;
- (c) approve the rules of procedure for calls for proposals, for the evaluation and selection of proposals and for monitoring of Projects;
- (d) upon proposal of the representative of the Community, decide on the ENIAC Joint Undertaking financial contribution to the budget of the calls for proposals;
- (e) approve the launch of calls for proposals;
- (f) approve the selection of project proposals to receive public funding following calls for proposals;
- (g) upon proposal of the representative of the Community, decide on the percentage of the ENIAC Joint Undertaking's financial contribution referred to in Article 15(5)(a) to participants in Projects arising from calls for proposals in any given year;
- (h) adopt its rules of procedure in accordance with paragraph 3 of this Article.

## 3. Rules of procedure

- (a) The Public Authorities Board shall meet at least twice a year, normally at the seat of the ENIAC Joint Undertaking.
- (b) The Public Authorities Board shall elect its Chairperson.
- (c) Until the Public Authorities Board has adopted its rules of procedure, the meetings shall be convened by the Commission.
- (d) The quorum of the Public Authorities Board shall be constituted by the Commission and at least three ENIAC Member States.

### *Article 8 – Industry and Research Committee*

## 1. Composition

- (a) AENEAS shall appoint the members of the Industry and Research Committee.
- (b) The Industry and Research Committee shall consist of no more than 25 members.

## 2. Role and tasks

The Industry and Research Committee shall:

- (a) elaborate the draft Multiannual Strategic Plan, including the content and update of the Research Agenda, and submit it to the Governing Board for approval;
- (b) prepare the draft Annual Work Programme, including proposals for the content of calls for proposals to be launched by the ENIAC Joint Undertaking;
- (c) elaborate proposals regarding the technological, research and innovation strategy of the ENIAC Joint Undertaking;
- (d) elaborate proposals for activities regarding the creation of open innovation environments, promoting the participation of SMEs, developing standards transparently and with openness to participation, international cooperation, dissemination and public relations;
- (e) advise the other Bodies on any issue related to planning and operating research and development programmes, fostering partnerships and leveraging resources in Europe in order to achieve the objectives of the ENIAC Joint Undertaking;
- (f) appoint working groups where necessary under the overall coordination of one or more members of this Committee in order to achieve the above tasks;
- (g) adopt its rules of procedure in accordance with paragraph 3 of this Article.

## 3. Rules of procedure

- (a) The Industry and Research Committee shall meet at least twice a year.
- (b) The Industry and Research Committee shall elect its Chairperson.
- (c) Until the Industry and Research Committee has adopted its own rules of procedure, the meetings shall be convened by AENEAS.

### *Article 9 – Executive Director*

- 1. The Executive Director shall be the chief executive responsible for the day-to-day management of the ENIAC Joint Undertaking and be its legal representative. He/she shall perform his/her tasks with independence and shall be accountable to the Governing Board. The Director shall exercise, in respect of the staff, the powers laid down in Article 8 (2) of the Council Regulation setting up the ENIAC Joint Undertaking.
- 2. The Executive Director shall be appointed by the Governing Board from a list of candidates proposed by the Commission, for a period of up to three years. After an evaluation of the Executive Director's performance, the Board may extend the term of office once for a further period of not more than four years.
- 3. The role and tasks of the Executive Director shall be:

- (a) to prepare the Annual Implementation Plan and the Annual Budget Plan, in collaboration with the Industry and Research Committee, and submit them to the Governing Board for approval;
- (b) to oversee the organisation and execution of all activities needed to carry out the Annual Implementation Plan within the framework and the rules laid down by these Statutes and subsequent decisions adopted by the Governing Board and the Public Authorities Board;
- (c) to prepare the Annual Activity Report and the Annual Accounts and balance sheets and submit them to the Governing Board for approval;
- (d) to present proposals on the internal functioning of the ENIAC Joint Undertaking to the Governing Board for approval;
- (e) to present proposals on the rules of procedure for calls for proposals launched by the ENIAC Joint Undertaking, including the associated project proposal evaluation and selection process to the Public Authorities Board for approval;
- (f) to manage the launch of calls for proposals, the process of evaluating and selecting project proposals and negotiating grant agreements for selected proposals, and the subsequent periodic monitoring and follow-up of Projects within the mandate given by the Public Authorities Board;
- (g) to conclude grant agreements for the implementation of the R&D activities as referred to in Articles 14 and 15, and service and supply contracts necessary for the operations of the ENIAC Joint Undertaking as referred to in Article 16;
- (h) to authorise all payments due by the ENIAC Joint Undertaking;
- (i) to establish and implement the necessary measures and actions for assessing the progress of the ENIAC Joint Undertaking towards achieving its objectives, including independent monitoring and auditing to assess the effectiveness and performance of the ENIAC Joint Undertaking;
- (j) to organise Project reviews and technical audits for the assessment of research and development results, and to report to the Governing Board on the overall results;
- (k) to carry out financial audits, directly or through the national public authorities, on Project participants as necessary, in compliance with the Financial Regulation of the ENIAC Joint Undertaking;
- (l) to negotiate the conditions for accession of new members of the ENIAC Joint Undertaking, on behalf of and within the mandate of the Governing Board;
- (m) to carry out any other necessary action for the successful achievement of the ENIAC Joint Undertaking's objectives not provided for in the Annual Implementation Plan, within any limits and conditions established by the Governing Board;

- (n) to convene meetings of the Governing Board and of the Public Authorities Board and to attend where appropriate these meetings as an observer;
  - (o) to provide the Governing Board with any information requested by it;
  - (p) to submit to the Governing Board his/her proposal(s) concerning the organisation structure of the Secretariat;
  - (q) to be fully responsible for decisions on personnel management regarding the staff of the ENIAC Joint Undertaking;
  - (r) to perform risk assessment and risk management analysis and to propose to the Governing Board any insurance that it may be necessary for the ENIAC Joint Undertaking to take out in order to meet its obligations.
4. A Secretariat under the responsibility of the Executive Director shall be established to provide support in all his/her tasks, including:
- (a) secretarial support for the Bodies of the ENIAC Joint Undertaking;
  - (b) operational support for evaluating proposals and monitoring Projects, including support in organising calls for proposals and arranging for Project reviews and technical audits;
  - (c) establishment and management of an appropriate internal audit and accounting system;
  - (d) financial tasks, including payments of financial contributions from the ENIAC Joint Undertaking to participants in Projects;
  - (e) support for communication activities such as public relations, publication and dissemination activities and organisation of events;
  - (f) managing invitations to tender for ENIAC Joint Undertaking goods/services requirements according to the Financial Regulation of the ENIAC Joint Undertaking.
5. Non-financial tasks of the Secretariat may be contracted by the ENIAC Joint Undertaking to external service providers. Such contracts shall be established in accordance with the provisions of the Financial Regulation of the ENIAC Joint Undertaking.

#### *Article 10 – Sources of financing*

1. All resources of the ENIAC Joint Undertaking shall be devoted to achieving the objectives laid down in Article 2 of these Statutes.
2. The resources of the ENIAC Joint Undertaking entered to its budget shall be composed of:
  - (a) Members' contributions to the running costs, except for the ones referred to in paragraph 4(c);

- (b) a Community contribution to fund the R&D activities;
- (c) any revenue generated by the ENIAC Joint Undertaking;
- (d) any other contributions and revenues.

Any interest yielded by the contributions paid by Members shall be considered to be revenue of the ENIAC Joint Undertaking.

3. Any legal entity that is not a Member may make in-kind or cash contributions to the resources of the ENIAC Joint Undertaking under the terms and conditions negotiated by the Executive Director on behalf of and within the mandate granted by the Governing Board.
4. The running costs<sup>22</sup> of the ENIAC Joint Undertaking for the period ending on 31 December 2017 shall be borne by its members:
  - (a) AENEAS shall make a contribution of up to EUR 20 million or up to 1% of the overall costs of Projects, whichever figure is higher, but not exceeding EUR 30 million;
  - (b) the Community shall make a contribution of up to EUR 10 million;
  - (c) ENIAC Member States shall make in-kind contributions to the running costs by facilitating the implementation of Projects and the granting of public funds as referred to in Articles 14 and 15;
  - (d) the contributions of the Community and AENEAS shall be made available in accordance with the provisions of the relevant Annual Budget Plan. Partial instalments shall be provided on the basis of the Joint Undertaking's financial needs.
5. The R&D activities of the ENIAC Joint Undertaking for the period ending on 31 December 2017 shall be supported through:
  - (a) a financial contribution from the Community of up to EUR 440 million to finance Projects;
  - (b) financial contributions from ENIAC Member States that shall amount in total to at least 1.8 times the Community's financial contribution. These financial contributions shall be paid to Project participants according to the provisions of Articles 14 and 15. Every year, ENIAC Member States shall communicate to the Executive Director by a date determined by the Governing Board their national financial commitments reserved for calls for proposals to be launched by the ENIAC Joint Undertaking taking into account the scope of the supported R&D activities addressed in the Calls;

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<sup>22</sup> Running costs are the costs necessary for the functioning of the ENIAC Joint Undertaking excluding the funding of R&D activities

- (c) in-kind contributions by R&D organisations participating in Projects which shall bear their share of the necessary cost of carrying out the Projects. Their overall contribution over the duration of the ENIAC Joint Undertaking shall be equal to or greater than the contribution of public authorities.
- 6. The financial contributions of the Members to the ENIAC Joint Undertaking shall be paid through partial instalments in accordance with the provisions of the Annual Budget Plan.
- 7. Should any Member of the ENIAC Joint Undertaking be in default of its commitments concerning its agreed financial contribution to the ENIAC Joint Undertaking, the Executive Director shall convene a meeting of the Governing Board to decide whether the remaining Members should revoke the defaulting Member's membership or if any other measures should be taken until its obligations have been met.
- 8. The ENIAC Joint Undertaking shall own all assets generated by or transferred to it for the fulfilment of its objectives as described in Article 2, unless otherwise specified.

#### *Article 11 – Financial year*

The financial year shall correspond to the calendar year.

#### *Article 12 – Financial Regulation*

- 1. The Financial Regulation of the ENIAC Joint Undertaking shall be adopted by the Governing Board.
- 2. The Financial Regulation shall be based on the principles of the Framework Financial Regulation<sup>23</sup> and shall include provisions for the planning and implementation of the budget of the ENIAC Joint Undertaking. The Financial Regulation may depart from the Framework Financial Regulation where the specific operating needs of the ENIAC Joint Undertaking so require and subject to prior consent from the Commission.
- 3. Discharge for the implementation of the budget of the ENIAC Joint Undertaking shall be given by the European Parliament, upon recommendation of the Council, in accordance with a procedure that shall be provided for by the Financial Regulation of the ENIAC Joint Undertaking.

#### *Article 13 – Planning and reporting*

- 1. The Multiannual Strategic Plan shall specify the strategy and plans for achieving the objectives of the ENIAC Joint Undertaking, including the Research Agenda.

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<sup>23</sup> Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the budget of the European Communities, OJ L 357, 31.12.2002 p. 72; corrigendum in OJ L 2, 7.1.2003, p. 39

2. The Annual Work Programme shall describe the scope and budget of calls for proposals needed to implement the Research Agenda for a particular year.
3. The Annual Implementation Plan shall specify the plan for the execution of all the activities of the ENIAC Joint Undertaking for a particular year, including planned calls for proposals and actions needing to be implemented through Calls for tenders. The Annual Implementation Plan shall be presented by the Executive Director to the Governing Board together with the Annual Budget Plan.
4. Annual Budget Plan: every year, the Executive Director shall present to the Governing Board a preliminary draft Annual Budget Plan containing a forecast of annual expenditure for the following two years and including the staff establishment plan. Within this forecast, the estimates of revenue and expenditure for the first of those two years shall be drawn up in such detail as is necessary for the internal budgetary procedure of each Member regarding its financial contributions to the ENIAC Joint Undertaking. The Executive Director shall supply the Governing Board with all supplementary information needed for this purpose.

The members of the Governing Board shall communicate to the Executive Director its comments on the preliminary draft Annual Budget Plan and in particular on the estimates of resources and expenditure for the following year. Taking into account the comments received from the members of the Governing Board, the Executive Director shall prepare the draft Annual Budget Plan for the following year in collaboration with the Industry and Research Committee. Before 1 September of each year, the Executive Director shall submit the Annual Budget Plan to the Governing Board for approval.

The Annual Budget Plan and the Annual Implementation Plan for a particular year shall be adopted by the Governing Board of the ENIAC Joint Undertaking by 31 October of the previous year.

5. The Annual Activity Report shall present progress made by the ENIAC Joint Undertaking in each calendar year, in particular in relation to the Multiannual Strategic Plan and the Annual Implementation Plan for that year.

The Annual Activity Report shall be presented by the Executive Director together with the Annual Accounts and balance sheets.

6. Within two months after the end of each financial year the provisional accounts of the Joint Undertaking shall be submitted to the Commission and the Court of Auditors of the European Communities ('the Court of Auditors'). The Court of Auditors shall, by 15 June after the end of each financial year, make its observations on the provisional accounts of the Joint Undertaking.
7. The annual accounts for the financial year shall be sent in the following year to the Commission's Accounting Officer according to the deadlines fixed by the Framework Financial Regulation so that the Commission's Accounting Officer can consolidate these into the EC annual accounts. The Joint Undertaking's annual accounts have to be prepared and audited following the EC Accounting Rules as adopted by the Commission's Accounting Officer.

#### *Article 14 - Implementation of R&D activities*

1. The ENIAC Joint Undertaking shall support R&D activities through competitive calls for proposals, independent evaluation and selection of proposals, allocation of public funding to selected proposals, and the funding of Projects.
2. The ENIAC Joint Undertaking shall conclude grant agreements with Project participants for the implementation of the Projects. These grant agreements shall refer to and, where appropriate, rely on corresponding national grant agreements as referred to in Article 15(5)(b).
3. In order to enable the implementation of Projects and the granting of public funds, the ENIAC Joint Undertaking shall establish administrative arrangements with the national entities designated by the ENIAC Member States for that purpose, in line with the Financial Regulation of the ENIAC Joint Undertaking.
4. Member States of the European Union or Associated Countries that are not Members of the ENIAC Joint Undertaking may conclude similar arrangements with the ENIAC Joint Undertaking.
5. The ENIAC Joint Undertaking shall set up the procedures for the supervision and control of the R&D activities, including provisions for monitoring and technical auditing of Projects. The ENIAC Member States shall not require additional monitoring and technical audit reports other than those required by the ENIAC Joint Undertaking.

#### *Article 15 – Funding of Projects*

1. Public funding to Project participants shall consist of the national financial contributions of the ENIAC Member States, and/or of the financial contribution of the ENIAC Joint Undertaking. Any public support under this initiative is without prejudice to the procedural and material State aid rules when applicable.
2. The calls for proposals launched and published by the ENIAC Joint Undertaking shall specify the overall budget available for each Call. This budget shall indicate the amounts committed at national level by each ENIAC Member State and the amount of the ENIAC Joint Undertaking's financial contribution. The Calls shall state the evaluation criteria in relation to the objectives of the Call.
3. The ENIAC Joint Undertaking's financial contribution to the budget for each Call shall be equivalent to 55% of the total amount committed by the ENIAC Member States, unless the Public Authorities Board decides otherwise on a proposal from the representative of the Community.
4. Calls, evaluation and selection of proposals
  - (a) Calls for proposals launched by the ENIAC Joint Undertaking shall be open to participants established in ENIAC Member States and in any other Member State of the European Union or Associated Country.

- (b) Consortia of participants in project proposals submitted in response to these Calls shall include at least three non-affiliated entities<sup>24</sup> established in at least three ENIAC Member States.
- (c) The evaluation and selection process shall ensure that allocation of the ENIAC Joint Undertaking's public funding follows the principles of excellence and competition<sup>25</sup>.
- (d) Following the evaluation of proposals, the Public Authorities Board shall establish a ranked list of proposals on the basis of clear evaluation criteria and their collective contribution towards achieving the objectives of the Call.
- (e) The Public Authorities Board shall decide on the selection of proposals and the allocation of public funding to selected proposals up to the limit of the budgets available, taking into account any national eligibility criteria. This decision shall be binding for ENIAC Member States without any further evaluation or selection processes.

## 5. Funding of Projects

- (a) The financial contribution of the ENIAC Joint Undertaking to participants in Projects shall be provided at a percentage of the total costs<sup>26</sup> incurred for implementing the Project. This percentage shall be determined on a yearly basis by the Public Authorities Board and be up to 16.7%. This percentage shall be equal for all participants in Projects arising from any given call for proposals.
- (b) ENIAC Member States shall establish grant agreements with participants in Projects in accordance to their national rules, in particular as regards eligibility criteria and other necessary financial and legal requirements. When applicable, national financial contributions from ENIAC Member States shall be disbursed directly to participants in Projects according to the national grant agreements. ENIAC Member States shall undertake best efforts to synchronise the establishment of grant agreements and to disburse their financial contributions in a timely manner.

### *Article 16 – Service and supply contracts*

The ENIAC Joint Undertaking shall set up all the appropriate procedures and mechanisms for the implementation, supervision and control of service and supply contracts concluded where necessary for the operations of the ENIAC Joint Undertaking.

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<sup>24</sup> As defined in the Rules for Participation in the Seventh Framework Programme 1906/2006 18 December 2006

<sup>25</sup> In particular, the evaluation and selection of projects should be consistent with the criteria spelled out in the Community Framework for State aid for Research and Development and Innovation (OJ C 323 of 30.12.2006, p. 1) and the Guidelines on the applicability of Article 81 of the EC Treaty to horizontal cooperation agreements, Official Journal C 003 , 06/01/2001 P. 0002 – 0030)

<sup>26</sup> "Total costs" as defined where appropriate by the funding authorities issuing the grant agreements

### *Article 17 – Staff resources*

1. The staff resources shall be determined in an establishment plan to be set out in the Annual Budget Plan.
2. The members of the staff of the ENIAC Joint Undertaking shall be temporary agents and contract agents and shall have fixed-term contracts extendable once up to a maximum total period of seven years.
3. The staff expenditure shall be borne by the ENIAC Joint Undertaking.
4. Any Member of the ENIAC Joint Undertaking or the host State may propose to the Executive Director that it second members of its staff to the Secretariat of the ENIAC Joint Undertaking.

### *Article 18 – Liability, insurance*

1. The contractual liability of the ENIAC Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the agreement or contract in question.
2. In the case of non-contractual liability, the ENIAC Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its staff in the performance of their duties.
3. Any payment by the ENIAC Joint Undertaking in respect of the liability referred to in paragraphs 1 and 2 and the costs and expenses incurred in connection therewith shall be considered as expenditure of the ENIAC Joint Undertaking and shall be covered by the resources of the ENIAC Joint Undertaking.
4. The ENIAC Joint Undertaking shall be solely responsible for meeting its obligations.
5. The ENIAC Joint Undertaking shall not be responsible for meeting the financial obligations of its Members. It shall not be liable for any ENIAC Member State failing to meet its obligations resulting from calls for proposals launched by the ENIAC Joint Undertaking.
6. The Members are not liable for any of the ENIAC Joint Undertaking's financial obligations. The financial liability of the Members is an internal liability towards the ENIAC Joint Undertaking only, and is limited to their commitment to contribute to the resources as set out in Article 10(2).
7. The financial liability of the ENIAC Joint Undertaking for its debts is limited to the contributions that the Members have made to the running costs as set out in Article 10 (2).
8. The ENIAC Joint Undertaking shall take out and maintain appropriate insurance.

### *Article 19 - Conflict of interests*

The ENIAC Joint Undertaking shall avoid any conflict of interests in the implementation of its activities.

#### *Article 20 – Protection of financial interests*

1. The ENIAC Joint Undertaking shall carry out on-the-spot checks and financial audits among the recipients of the ENIAC Joint Undertaking's public funding. These checks and audits shall be performed either directly by the ENIAC Joint Undertaking or by ENIAC Member States on its behalf.
2. The Commission or the European Court of Auditors may, as necessary, carry out on-the-spot checks among the recipients of the ENIAC Joint Undertaking's funding and the agents responsible for allocating it. To that end, the ENIAC Joint Undertaking shall ensure that its grant agreements and contracts provide for the right of the Commission and of the Court of Auditors to carry out the appropriate controls and, in the event of detection of irregularities, to impose dissuasive and proportionate penalties.
3. The European Anti-Fraud Office (OLAF) set up by Commission Decision 1999/352/EC, ECSC, Euratom shall enjoy the same powers in respect of the Joint Undertaking and its staff as it enjoys in respect of Commission departments. As soon as the Joint Undertaking is established, it shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by OLAF. The Governing Board shall approve that accession and adopt the necessary measures needed to facilitate internal investigations conducted by OLAF.

#### *Article 21 – Winding up*

1. At the end of the period provided for in Article 1(3), the ENIAC Joint Undertaking shall be wound up.
2. The winding-up procedure shall be automatically triggered if the Commission withdraws from the ENIAC Joint Undertaking.
3. For the purpose of conducting the proceedings involved in liquidating the ENIAC Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.
4. When the ENIAC Joint Undertaking is being wound up, it shall return to the host State any physical support item made available by the host State in accordance with the host agreement referred to in Article 24.
5. When any physical asset has been dealt with as provided for in paragraph 4, any further assets shall be used to cover the liabilities of the ENIAC Joint Undertaking and the costs relating to its winding-up. Any surplus or deficit shall be distributed among or met by the Members existing at the time of the winding-up in proportion to their actual contribution to the ENIAC Joint Undertaking.
6. Remaining assets shall be distributed to the Members existing at the time of the winding-up in proportion to their actual contribution to the ENIAC Joint Undertaking.
7. An *ad hoc* procedure shall be set up to ensure the appropriate management of any grant agreement and service and supply contract concluded by the ENIAC Joint

undertaking, with a duration longer than the duration of the ENIAC Joint Undertaking.

#### *Article 22 – Amendments to the Statutes*

1. The present Statutes of the ENIAC Joint Undertaking shall enter into force following their approval by the Founding Members at the first meeting of the Governing Board.
2. Any Member of the ENIAC Joint Undertaking may submit a draft proposal for amending the Statutes to the Governing Board.
3. Proposals for amendments to the Statutes shall be approved by the Governing Board according to the provisions of Article 6 and submitted to the Commission for decision.
4. Notwithstanding paragraph 3, any amendment proposed to Article 1(3), Article 4 (3), Article 10(4)(b) Article 10(5)(a) shall be considered as an essential aspect and therefore subject to a revision of this Regulation.
5. Proposals for amendments to the Statutes of AENEAS shall be notified to the Governing Board of the ENIAC Joint Undertaking at least forty-five days in advance of their adoption.

#### *Article 23 – Intellectual property policy*

1. The objective of the intellectual property policy as laid down in this Article is to promote the creation of knowledge and its exploitation, to achieve fair allocation of rights, to reward innovation, and to achieve broad participation of private and public entities in Projects.
2. For the purposes of this Article:
  - (a) “Information” shall mean any drawings, specifications, photographs, samples, models, processes, procedures, instructions, software, reports, papers, or any other technical and/or commercial information, know-how, data or documents of any kind, including oral information, other than subject matter protected by “Intellectual Property Rights” (IPR);
  - (b) “Intellectual Property Rights” (IPR) shall mean any intellectual property rights, including patents, utility models and utility certificates, industrial design rights, copyrights, trade secrets, database rights, topographies of semiconductor products' rights, as well as any registrations, applications, divisions, continuations, re-examinations, renewals or reissues of any of the foregoing, excluding trademarks and trade names;
  - (c) “Background Information” shall mean any information which is owned or controlled by a Project participant on the effective date of the corresponding Project Agreement, or in respect of which ownership or control is acquired by a Project participant as a result of activities outside the framework of the Project;
  - (d) “Background IPR” shall mean any IPRs which are owned or controlled by a Project participant on the effective date of the corresponding Project

Agreement, or in respect of which ownership or control is acquired during the term of the corresponding Project agreement as a result of activities outside the framework of the Project;

- (e) "Background" shall mean Background Information and Background IPR;
  - (f) "Foreground Information" shall mean any Information that is generated as a result of the activities conducted within the framework of a Project concerned, as specified in the corresponding Project Agreement;
  - (g) "Foreground IPR" shall mean any IPRs that are generated as a result of the activities conducted within the framework of the Project concerned as specified in the corresponding Project Agreement;
  - (h) "Foreground" shall mean Foreground Information and Foreground IPR;
  - (i) "Access Right" shall mean non-exclusive licences and user rights to Foreground or Background, which rights shall not include the right to sublicense unless otherwise agreed upon in the Project Agreement;
  - (j) "Needed" shall mean "technically essential" for the implementation of the Project and/or in respect of use of Foreground and, where Intellectual Property Rights are concerned, shall mean that those Intellectual Property Rights would be infringed if the Access Rights were not granted;
  - (k) "Use" shall mean the developing, creating and marketing of a product or process for creating and providing a service as may be further defined in the applicable Project Agreement;
  - (l) "Dissemination" shall mean the disclosure of Foreground by any appropriate means other than that resulting from the formalities for protecting it, and including the publication of Foreground in any medium;
  - (m) "Project Agreement" shall mean an agreement between Project participants setting forth all or part of the terms and conditions that apply between them regarding a specific Project, such as a project consortium agreement, which agreement shall include without limitation Access Rights in accordance with this Article;
  - (n) "Transfer Conditions" means financial conditions that have a value lower than fair and reasonable conditions, normally the cost of making the Access Rights available.
3. Without prejudice of Community competition rules, the intellectual property arrangements in Projects shall be governed by the following principles:
- 3.1. Ownership
- 3.1.1. The Joint Undertaking shall own any tangible and intangible assets created with its own resources or transferred to it for the implementation of the ENIAC Joint Undertaking, unless otherwise specified.

- 3.1.2. Notwithstanding the provisions above, the ENIAC Joint Undertaking shall not retain any Information or IPR created in Projects.
- 3.1.3. Each participant in a Project remains the owner of its Background. Participants may define the Background needed for the purposes of the ENIAC Joint Undertaking Project in a written project agreement and, where appropriate, may exclude specific background.
- 3.1.4. Foreground arising from work carried out under Projects shall be the property of the participant(s) carrying out the work generating that Foreground according to the arrangements described in the grant and Project Agreements and the principles laid down in this Article.
- 3.2. Access Rights
  - 3.2.1. Project participants in the same Project shall conclude among themselves a Project Agreement that shall govern, inter alia, the Access Rights to be granted in accordance with this Article. Project participants may define the Background needed for the purposes of the Project and, where appropriate, may agree to exclude specific Background.
  - 3.2.2. Access Rights to Background shall be granted to other participants in the same Project if such Background is needed by those other participants to carry out their own work in the Project, provided that the owner is entitled to grant such rights. Access Rights shall be granted on Transfer Conditions to be agreed by the Project participants concerned, unless otherwise agreed by all participants in the Project Agreement.
  - 3.2.3. Access Rights to Foreground shall be granted to other participants in the same project if such Foreground is needed by those other participants to carry out their own work in the project. Such Access Rights shall be granted on a royalty-free non-exclusive and non-transferable basis.
  - 3.2.4. Participants in the same Project shall enjoy Access Rights to Background if this is needed for the Use of their own Foreground of that Project, provided that the owner of the Background is entitled to grant them. Such Access Rights shall be granted on a non-exclusive basis on fair, reasonable and non-discriminatory conditions.
  - 3.2.5. Participants in the same Project shall enjoy Access Rights to Foreground if this is needed for their own Use. Such Access Rights shall be granted on a non-transferable non-exclusive basis either royalty-free or on fair, reasonable and non-discriminatory conditions.
  - 3.2.6. Subject to the agreement of all the owners concerned, Access Rights to Foreground for the purposes of pursuing further research activities shall be granted to a third party on fair and reasonable conditions to be agreed.
- 3.3. Protection, Use and Dissemination
  - 3.3.1. Where Foreground is capable of being profitably exploited, its owner (i) shall provide for its appropriate and effective protection, having due regard to its

legitimate interests, particularly commercial interests, and those of the other participants in the Project concerned and (ii) shall use it or ensure that it is used.

- 3.3.2. Each participant shall ensure that the Foreground of which it has ownership is disseminated without undue delay.
- 3.3.3. All dissemination activities shall be compatible with the protection of intellectual property rights, confidentiality obligations, and the legitimate interest of the owners of the Foreground.
- 3.3.4. Prior notice of any dissemination activity regarding Foreground, Background or confidential information owned by other participants in the same Project or other data or information that is amalgamated with such other participants Foreground, Background or confidential information, shall be given to such other participants. Within 45 days following such notification, any of those participants may object in writing if its legitimate interests in relation to its Foreground or Background may be harmed by such dissemination. In such cases, the dissemination activity may not take place unless appropriate steps are taken to safeguard those legitimate interests.
- 3.3.5. All publications, patent applications filed by or on behalf of a participant, or any other dissemination relating to Foreground shall include a statement that the Foreground concerned was generated with financial support from the ENIAC Joint Undertaking. All dissemination activities shall be compatible with the protection of intellectual property rights, confidentiality obligations, and the legitimate interest of the owners of the Foreground.

#### 3.4. Transfer

- 3.4.1. Where a participant transfers ownership of Foreground, it shall pass on its obligations regarding such Foreground to the transferee including the obligation to pass those obligations on to any subsequent transferee. These obligations shall include those relating to the granting of Access Rights, and dissemination and use.
- 3.4.2. Subject to its obligations concerning confidentiality, where a Project participant is required to pass on its obligations to provide access rights, it shall give at least 45 days prior notice to the other participants of the envisaged transfer<sup>27</sup>, together with sufficient information concerning the envisaged new owner of the Foreground to permit the other participants to exercise their access rights. Following notification, any other participant may object within 30 days or within a different time-limit agreed in writing, to any envisaged transfer of ownership on the grounds that it would adversely affect its access rights. Where any of the other participants demonstrate that their access rights would be adversely affected, the intended transfer shall not take place until agreement has been reached between participants concerned.

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<sup>27</sup> The participants may, by written agreement, agree on a different time-limit or waive their right to prior notice in the case of transfers of ownership from one participant to a specifically identified third party

*Article 24 – Agreement with the host State*

A host agreement shall be concluded between the ENIAC Joint Undertaking and the host State.

*Article 25 – Applicable law*

In any matter not covered by these Statutes or by acts of Community law, the law of the State where the seat of the ENIAC Joint Undertaking is located shall apply.

## LEGISLATIVE FINANCIAL STATEMENT

### 1. NAME OF THE PROPOSAL:

Council regulation setting up the ENIAC Joint Undertaking.

### 2. ABM / ABB FRAMEWORK

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

Research and Technological Development: 7<sup>th</sup> Framework Programme

### 3. BUDGET LINES

#### 3.1. Budget lines including headings:

**09 04 01 30 "Research and Development activities of the ENIAC JTI"**

**09 04 01 40 "Support expenditure for the ENIAC JTI"**

#### 3.2. Duration of the action and of the financial impact:

**The ENIAC Joint Undertaking is expected to be established by means of a Council Regulation in autumn 2007 for an initial period up to 31 December 2017.**

#### 3.3. Budgetary characteristics:

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
09.040130	Non-comp	Diff	YES	YES	YES	No [1A]
09.040140	Non-comp	Non-diff	YES	YES	YES	No [1A]

### 4. SUMMARY OF RESOURCES

#### 4.1. Financial Resources

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

*EUR million (to 3 decimal places)*

Expenditure type	Section No		Year 2007	Year 2008	Year 2009	Year 2010	Year 2011	Year 2012 and later	Total
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#### Operational expenditure<sup>28</sup>

Commitment Appropriations (CA)	8.1	a	0	41.5	55	68.5	85	190	440
Payment Appropriations (PA) <sup>29</sup>		b	0	13.85	32.2	55	73.65	265.3	440

#### Administrative expenditure<sup>30</sup> within reference amount<sup>31</sup>

Technical & administrative assistance (NDA)	8.2.4	c	0	1.5	2	1.5	2	3	10
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#### TOTAL REFERENCE AMOUNT<sup>32</sup>

Commitment Appropriations		a+c	0	43	57	70	87	193	450
Payment Appropriations		b+c	0	15.35	34.2	56.5	75.65	268.3	450

#### Administrative expenditure not included in reference amount<sup>33</sup>

Human resources and associated expenditure (NDA)	8.2.5	d	0.088	0.351	0.351	0.351	0.351	2.106	3.598
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e	0.005	0.017	0.017	0.037	0.037	0.222	0.335

#### Total indicative financial cost of action ...

<sup>28</sup> Expenditure 09 04 01 30 "Research and Development activities of the ENIAC JTI".

<sup>29</sup> Payment appropriations are calculated on the basis of average duration of projects (3 years) and payments over 4 years of which 30% in Y1 (advance payment), 10% in Y4, and 30% in Y2 and Y3

<sup>30</sup> Expenditure to cover the running costs of the JTI.

<sup>31</sup> Expenditure 09 04 01 40 "Support expenditure for the ENIAC JTI".

<sup>32</sup> The **reference amount** is the amount of the Commission financial contribution to the ENIAC Joint Undertaking as stated in the legal instrument (€450 million).

<sup>33</sup> The **reference amount** does not include the administrative expenditure from the Research budget that is not transferred to the ENIAC Joint Undertaking.

<b>TOTAL CA including cost of Human Resources</b>		a+c+d+e	<b>0.093</b>	<b>43.368</b>	<b>57.368</b>	<b>70.388</b>	<b>87.388</b>	<b>195.328</b>	<b>453.933</b>
<b>TOTAL PA including cost of Human Resources</b>		b+c+d+e	<b>0.093</b>	<b>15.718</b>	<b>34.568</b>	<b>56.888</b>	<b>76.038</b>	<b>270.628</b>	<b>453.933</b>

### Co-financing details

AENEAS (association representing industrial and other R&D actors) will contribute to the running<sup>34</sup> (non-R&D) costs of the Joint Undertaking up to €20m or 1% of the overall costs of R&D whichever figure is higher, but not exceeding €30m. For the table below it is considered that these overall costs will amount to €3bn. The Community contribution to the running costs will be up to €10m (see 8.2.4).

*EUR million (to 3 decimal places)*

Co-financing body		Year 2007	Year 2008	Year 2009	Year 2010	Year 2011	Year 2012 and later	Total
AENEAS	f	<b>0.2</b>	<b>2</b>	<b>3</b>	<b>4.5</b>	<b>5</b>	<b>15.3</b>	<b>30</b>
<b>TOTAL CA including co-financing</b>	a+c+d+e+f	<b>0.93</b>	<b>45.368</b>	<b>60.368</b>	<b>74.888</b>	<b>92.388</b>	<b>210.628</b>	<b>483.933</b>

Additionally, Member States of the Joint Undertaking will at national level make annual commitments of funds to be spent in R&D projects launched by the Joint Undertaking; these additional resources are estimated to be at least 1.8 times the operational expenditure stated in section 4.1.1, i.e. at least €792m for the duration of the Joint Undertaking.

The organisations participating in R&D projects selected through the Calls for Proposals launched by the Joint Undertaking will contribute to these projects in kind; the value of these contributions will be assessed and is expected to amount to at least €1232m.

#### 4.1.2. Compatibility with Financial Programming

**X** Proposal is compatible with existing financial programming.

#### 4.1.3. Financial impact on Revenue

**X** Proposal has no financial implications on revenue

<sup>34</sup> Running costs are the costs necessary for the functioning of the ENIAC Joint Undertaking, excluding the funding of R&D projects launched following Calls for Proposals.

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

<b>Annual requirements</b>	<b>Year 2007</b>	<b>Year 2008</b>	<b>Year 2009</b>	<b>Year 2010</b>	<b>Year 2011</b>	<b>Year 2012 and later (average)</b>
Total number of human resources	0.75	13	17	24	24	19.5

**5. CHARACTERISTICS AND OBJECTIVES**

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

**Setting-up of the ENIAC Joint Undertaking as a public-private partnership, and Community contribution to its resources.**

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

**The ENIAC Joint Undertaking will operate an integrated R&D programme to pursue key technological and industrial objectives. The added value is significant because:**

- It creates a new legal framework where Community and national funds can be combined for co-financing R&D projects with the private sector. This is a significant institutional innovation since such co-financing is impossible in the current state of affairs.
- It aligns national and Community budgets along common R&D objectives and allocates these budgets according to common European-level procedures. This is a major advancement to the European Research Area.
- The proposed set-up significantly boosts the effectiveness of European R&D compared to current intergovernmental process for financing projects from different national sources (e.g. in Eureka) and from the Framework Programme.
- Finally, it creates incentives for the private and public sectors to increase their investments in R&D, thereby advancing towards the Barcelona objective of 3% of European GDP investment in RTD.

The Community's operational expenditure envisaged for this purpose is a small fraction of the overall budget of the Seventh Framework Programme (450:50521 = 0.89%) and of the ICT theme therein (5.2%).

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

**The implementation of a Joint Technology Initiative (JTI) in this area already figures in the Seventh Framework Programme for RTD and in its "Cooperation" Specific Programme. In addition, the Council (competitiveness) has repeatedly acknowledged the potential of the JTI concept<sup>35</sup> and recently has invited the Commission to make proposals for the setting up of "Joint Technology Initiatives that have reached an appropriate stage of preparedness"<sup>36</sup>.**

**Policy objectives that are linked to this operational objective are:**

- (1) To create the legal basis that will allow, for the first time, national, EU and private investment to be combined within a coherent framework.
- (2) To ramp up R&D investment and to transfer faster research into innovation in key lead markets in Europe by providing incentives for Member States and industry to increase their R&D expenditure. This is one of the key points in the Commission's Annual Policy Strategy for 2006<sup>37</sup> and responds to the 3% Action Plans and related conclusions of the European Councils and Council meetings (competitiveness)<sup>38</sup>.

The achievement of the technological and economic objectives of the JTI will contribute to enhance the competitiveness of European industry and significant economic and social benefits will be obtained. These objectives are therefore fully consistent with the revised Lisbon strategy and the strategy for sustainable growth and jobs.

Moreover, the present legislative proposals contribute to Action 7 of the i2010 strategic initiative. Work to set up the ENIAC Joint Undertaking was covered by the AMP of DG INFSO under Objectives 8 and 10 (ABB Activity code 0904).

Concerning the inputs and the expected outputs, results and impacts, the following details are given:

The inputs by the Commission are the resources listed in section 4.1.

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<sup>35</sup> 9039/03, 12339/03, 12487/04

<sup>36</sup> 15717/06, 7224/07

<sup>37</sup> COM(2005) 73 final.

<sup>38</sup> 9039/03, 12339/03, 12487/04.

The outputs are R&D projects launched by the Joint Undertaking.

The following results are expected:

- Leveraging resources and integrating national efforts. By providing incentives to industry and Member States, additional national support will be attracted and greater industry funding will be leveraged.

Indicators: (i) number of countries that commit funding to the Joint Undertaking; (ii) commitments and payments according to the provisions of section 4.1.1; (iii) national funding committed and spent on projects selected by the Joint Undertaking; (iv) resources invested by industry in R&D work under projects selected by the Joint Undertaking.

- Focusing on common R&D agendas more effectively than is currently possible. The integrated holistic approach will enlarge the number of strategic partnerships between European players, creating new business ecosystems.

Indicators: this result will be achieved *de facto* when the Joint Undertaking becomes fully operational - (v) number and level of partnerships

- High programme efficiency by removing uncertainty as to the availability of national budgets, getting rid of the duplication of evaluation and monitoring procedures, decentralised flexible management, linking pre-competitive research with closer to the market innovation. These benefits should lead to a programme that is popular and attractive to a broad variety of R&D actors, especially SMEs.

Indicators: (vi) time interval between proposal submission and project selection decision by the Joint Undertaking; (vii) number of organisations, including SMEs participating in Calls for proposals; (viii) overhead costs for operating the programme (ix) results transferred in the market

- Significant economic and social benefits will be gained to the extent that the R&D projects launched by the Joint Undertaking make progress in achieving its technological and economic objectives. This progress will be subject to periodic independent evaluation.

Indicators: (x) patents filed resulting from projects; (xi) number of publications resulting from projects.

#### **5.4. Method of Implementation (indicative)**

##### **...Centralised Management**

Directly by the Commission

Indirectly by delegation to:

Executive Agencies

X 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

**...Joint management with international organisations (please specify)**

Relevant comments: the ENIAC Joint Technology Initiative will be a Community body, established by Council Regulation on the basis of Article 171 of the EC Treaty. Its members are AENEAS, the European Commission and Member States. Member States can undertake some administrative tasks, for example, financial and legal verifications and audits of participants in the R&D projects.

**6. MONITORING AND EVALUATION**

**6.1. Monitoring system**

The Joint Undertaking will be monitored as provided in its Statutes.

**6.2. Evaluation**

*6.2.1. Ex-ante evaluation*

See the impact assessment attached to this proposal.

*6.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)*

Not applicable

*6.2.3. Terms and frequency of future evaluation*

Independent evaluations are provided for in the Statutes (two interim by 2010 and 2015 and one ex-post by March 2018).

**7. ANTI-FRAUD MEASURES**

The ENIAC Joint Undertaking shall adopt a Financial Regulation based on the principles of the Framework Financial Regulation, departing from the Framework Financial Regulation where the specific operating needs of the ENIAC Joint Undertaking so require

and subject to prior consent from the Commission. Furthermore, Article 13 of the Council Regulation stipulates specific provisions for the protection of the financial interests of the Members of the Joint Undertaking and anti-fraud measures.

## 8. DETAILS OF RESOURCES

### 8.1. Objectives of the proposal in terms of their financial cost

*Commitment appropriations in EUR million (to 3 decimal places)*

	Type of output	Av. cost	Year 2008		Year 2009		Year 2010		Year 2011		Year 2012		Year 2013 and later		TOTAL	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE <sup>39</sup> - Setting up the ENIAC Joint Undertaking and implementing its Research Agenda																
Action 1																
- Output 1 (*)	projects	2.5		0	16.6	41.5	22	55	27.4	68.5	34	85	76	190	176	440
TOTAL COST		2.5		0	16.6	41.5	22	55	27.4	68.5	34	85	76	190	176	440

(\*) assuming an average total cost per project of €15m, of which 16.7% is funded by the ENIAC Joint Undertaking.

<sup>39</sup>

As described in section 5.3.

## 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 existing and/or additional resources ( <b>number of posts/FTEs</b> )					
		Year 2007	Year 2008	Year 2009	Year 2010	Year 2011	Year 2012 and later (average)
Officials or temporary staff <sup>40</sup>	A*/AD	0.5	2	2	2	2	2
	B*, C*/AST	0.25	1	1	1	1	1
Staff financed <sup>41</sup> by art. XX 01 02		0	0	0	0	0	0
Other staff <sup>42</sup> (09 04 01 40)		0	10	14	21	21	16.5
<b>TOTAL</b>		0.75	13	17	24	24	19.5

8.2.2. *Description of tasks deriving from the action: Representing the Commission in the bodies of the Joint Undertaking, including the associated preparatory and follow-up work. This includes: (a) representation in the Governing Board (Director level, 10%); (b) representation in Public Authorities Board (HoU level, 20%); (c) preparation of meetings, Calls, project selection, attendance at evaluations, etc. (2 AD level staff, 75% of time each); (d) auditing, including on-the-spot checks and verifications (1 AD, 20%). The "Other staff" will be hired by the ENIAC Joint Undertaking*

### 8.2.3. Sources of human resources (statutory)

**X** Posts to be redeployed using existing resources within the managing service (internal redeployment): 2 AD and 1 AST

<sup>40</sup> Cost of which is NOT covered by the reference amount.

<sup>41</sup> Cost of which is NOT covered by the reference amount.

<sup>42</sup> Cost of which is included within the reference amount and the contribution from AENEAS.

8.2.4. *Other Administrative expenditure included in reference amount (09 04 01 40 "Support expenditure for the ENIAC JTI"):*

*EUR million (to 3 decimal places)*

Budget line (number and heading)	Year 2007	Year 2008	Year 2009	Year 2010	Year 2011	Year 2012 and later	TOTAL
<b>1 Technical and administrative assistance (including related staff costs)</b>							
ENIAC Joint Undertaking (*)	0	1.5	2	1.5	2	3	10
<b>Total Technical and administrative assistance</b>	0	1.5	2	1.5	2	3	10

(\*)The running costs of the Joint Undertaking will be co-financed by AENEAS (see co-financing table above) and a Community contribution of up to €10m for the duration of the JU. The indicative costs in this table correspond only to the Community contribution.

8.2.5. *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 2007	Year 2008	Year 2009	Year 2010	Year 2011	Year 2012 and later
Officials and temporary staff	0.088	0.351	0.351	0.351	0.351	2.106
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.)  (specify budget line)	0	0	0	0	0	0
<b>Total cost of Human Resources and associated costs (NOT in reference amount)</b>	<b>0.088</b>	<b>0.351</b>	<b>0.351</b>	<b>0.351</b>	<b>0.351</b>	<b>2.106</b>

Calculation– *Officials and temporary agents*

The human resources indicated in section 8.2.1 are used with an average cost of €117.000 per post FTE.

Calculation– *Staff financed under Art XX 01 02*

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

EUR million (to 3 decimal places)

	Year 2007	Year 2008	Year 2009	Year 2010	Year 2011	Year 2012 and later	TOTAL
Missions	0.005	0.017	0.017	0.017	0.017	0.102	0.175
Meetings & Conferences	0	0	0	0	0	0	0
Committees	0	0	0	0	0	0	0
Studies & consultations	0	0	0	0.020	0.020	0.12	0.16
Information systems	0	0	0	0	0	0	0
<b>2 Total Other Management Expenditure</b>	0.005	0.017	0.017	0.037	0.037	0.222	0.335
<b>3 Other expenditure of an administrative nature</b> (specify including reference to budget line)							
<b>Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)</b>	0.005	0.017	0.017	0.037	0.037	0.222	0.335

Calculation - *Other administrative expenditure not included in reference amount*

**Missions:**

It is assumed that half of the meetings will be held in Brussels. The total shown above is based on €1.300 per mission and: 1 mission per year for 2 officials to attend Governing Board meetings, 3 missions per year by 1 official to attend meetings of other committees created by the Governing Board, 3 missions per year by 2 officials to attend Public Authorities Board meetings, and 2 missions per year for other reasons.

**Studies and consultations:** One independent consultation is planned per year after the third year in order to obtain feedback on the operation of the scheme from the research community.