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► **B** DECISION No 1639/2006/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 24 October 2006
establishing a Competitiveness and Innovation Framework Programme (2007 to 2013)
(OJ L 310, 9.11.2006, p. 15)

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**DECISION No 1639/2006/EC OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL**

of 24 October 2006

**establishing a Competitiveness and Innovation Framework
Programme (2007 to 2013)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and
in particular Article 156, Article 157(3) and Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social
Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the
Treaty ⁽³⁾,

Whereas:

- (1) The Lisbon European Council of 23 and 24 March 2000 set the objective of making the European Union the most competitive and dynamic knowledge-based economy in the world. It emphasised the importance of creating a climate favourable to small and medium-sized enterprises (SMEs), and considered it important to disseminate best practice and ensure greater convergence between Member States. The Gothenburg European Council of 15 and 16 June 2001 agreed the Union's Strategy for Sustainable Development to ensure that economic growth, social inclusion and environmental protection go hand in hand. Enterprises' production patterns play an important role in sustainable development.
- (2) In order to contribute to the enhancement of competitiveness and innovation capacity in the Community, the advancement of the knowledge society, and sustainable development based on balanced economic growth, a Competitiveness and Innovation Framework Programme (hereinafter referred to as the Framework Programme) should be established.
- (3) This is in line with the Commission Communication of 2 February 2005 to the Spring European Council entitled 'Working together for growth and jobs — a new start for the Lisbon Strategy', which calls for action to deliver growth and competitiveness and to make Europe a more attractive place in which to invest and work, recalling that entrepreneurial initiative must be stimulated, sufficient risk capital attracted to start up businesses, and a strong European industrial base sustained

⁽¹⁾ OJ C 65, 17.3.2006, p. 22.

⁽²⁾ OJ C 115, 16.5.2006, p. 17.

⁽³⁾ Opinion of the European Parliament of 1 June 2006 (not yet published in the Official Journal) and Council Decision of 12 October 2006.

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whilst innovation, notably eco-innovation, the uptake of information and communication technologies (ICT), and the sustainable use of resources should be promoted. Whilst competitiveness is to a large measure driven by vibrant businesses operating in open and competitive markets and supported by the right framework conditions, in particular by a regulatory framework conducive to innovation, Community financing has a role to play in leveraging support and providing complementary funding in order to tackle situations of market failure.

- (4) The European Charter for Small Enterprises (hereinafter referred to as the Charter), endorsed by the European Council in Santa Maria de Feira of 19 and 20 June 2000, describes small enterprises as the backbone of the European economy. The specific nature, requirements and expectations of small and craft enterprises should be taken into account more effectively in national and European policies. Community measures to promote SMEs, such as the Commission Communication of 10 November 2005 entitled 'Implementing the Community Lisbon Programme — Modern SME Policy for Growth and Employment', should take account of the objectives set out in the Charter, and the Framework Programme should be used as a means of progressing towards the objectives set by it.
- (5) The Framework Programme should particularly address SMEs, as defined in Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises⁽¹⁾. It should pay particular attention to the specific characteristics and requirements of 'gazelles' as well as of micro and craft enterprises, and specific target groups, including female entrepreneurs.
- (6) The Framework Programme should bring together those specific Community measures in the field of entrepreneurship, SMEs, industrial competitiveness, innovation, ICT, environmental technologies and intelligent energy that, until now, have been regulated by Council Decision 96/413/EC of 25 June 1996 on the implementation of a Community action programme to strengthen the competitiveness of European industry⁽²⁾, Decision No 1336/97/EC of the European Parliament and of the Council of 17 June 1997 on a series of guidelines for trans-European telecommunications networks⁽³⁾, Regulation (EC) No 1655/2000 of the European Parliament and of the Council of 17 July 2000 concerning the Financial Instrument for the Environment (LIFE)⁽⁴⁾, Council Decision 2000/819/EC of 20 December 2000 on a multiannual programme for enterprise and entrepreneurship, and in particular for small- and medium-sized enterprises (SMEs) (2001-2005)⁽⁵⁾, Council Decision 2001/48/EC of 22 December 2000 adopting a multiannual Community programme to stimulate the development and use of European digital content on the global networks and to promote linguistic diversity in the information society⁽⁶⁾, Decision No 1230/2003/EC of the European Parliament and of

⁽¹⁾ OJ L 124, 20.5.2003, p. 36.

⁽²⁾ OJ L 167, 6.7.1996, p. 55.

⁽³⁾ OJ L 183, 11.7.1997, p. 12. Decision as amended by Decision No 1376/2002/EC (OJ L 200, 30.7.2002, p. 1).

⁽⁴⁾ OJ L 192, 28.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 1682/2004 (OJ L 308, 5.10.2004, p. 1).

⁽⁵⁾ OJ L 333, 29.12.2000, p. 84. Decision as last amended by Decision No 1776/2005/EC of the European Parliament and of the Council (OJ L 289, 3.11.2005, p. 14).

⁽⁶⁾ OJ L 14, 18.1.2001, p. 32.

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the Council of 26 June 2003 adopting a multiannual programme for action in the field of energy: 'Intelligent Energy — Europe' (2003-2006) ⁽¹⁾ to support sustainable development in the energy context and Decision No 2256/2003/EC of the European Parliament and of the Council of 17 November 2003 adopting a multiannual programme (2003-2005) for the monitoring of the eEurope 2005 action plan, dissemination of good practices and the improvement of network and information security (Modinis) ⁽²⁾.

- (7) The Framework Programme should establish a set of common objectives, the total financial envelope for pursuing those objectives, different types of implementing measures, and the arrangements for monitoring and evaluation and for the protection of the Communities' financial interests.
- (8) In line with the Commission Communication of 11 March 2003 entitled 'Innovation policy: updating the Union's approach in the context of the Lisbon strategy' and in the light of the OECD Oslo Manual, innovation is understood as comprising the renewal and enlargement of a range of products and services and their associated markets; the establishment of new methods of design, production, supply and distribution; the introduction of changes in management, work organisation, and working conditions and skills of the workforce; and covers technological, non-technological and organisational innovation.
- (9) The Framework Programme should exclude research and technological development activities carried out in accordance with Article 166 of the Treaty. It should be complementary to the Community's Seventh Framework Programme for research, technological development and demonstration activities (2007-2013) ⁽³⁾ (hereinafter referred to as the Seventh Framework RTD Programme), by dealing with innovation, which includes non-technological as well as technological innovation, that has moved beyond the final demonstration phase and is ready for market replication (testing of innovations for application in markets). It should be ensured that there is no financing gap between research development and application (technology-transfer activities including pre-seed phase). Therefore, funding the transfer of research results to commercialisation is a task to be carried out in close coordination with the Seventh Framework RTD Programme and other relevant research programmes.
- (10) The Framework Programme should also cover the market replication of existing technologies that are to be utilised in a new and innovative way. In certain circumstances, pilot projects for technological demonstration will be covered by both the Framework Programme and the Seventh Framework RTD Programme. This will occur only when certain technological solutions (for example technical standards in the ICT field) have to be validated during the market replication phase of an otherwise already demonstrated technology.

⁽¹⁾ OJ L 176, 15.7.2003, p. 29. Decision as amended by Decision No 787/2004/EC (OJ L 138, 30.4.2004, p. 12).

⁽²⁾ OJ L 336, 23.12.2003, p. 1. Decision as last amended by Decision No 2113/2005/EC (OJ L 344, 27.12.2005, p. 34).

⁽³⁾ Not yet published in the Official Journal.

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- (11) The Framework Programme should complement the Structural Funds and other relevant Community programmes, whilst acknowledging that each instrument should work according to its own specific procedures. Thus, the same eligible costs should not receive double funding.
- (12) The common objectives of the Framework Programme should be pursued by specific programmes entitled ‘the Entrepreneurship and Innovation Programme’, ‘the ICT Policy Support Programme’ and ‘the Intelligent Energy — Europe Programme’.
- (13) The principles of transparency and equal gender opportunity should be taken into account in all the programmes and activities covered by the Framework Programme.
- (14) This Decision lays down, for the entire duration of the Framework Programme, a financial envelope constituting the prime reference, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management⁽¹⁾, for the budgetary authority during the annual budgetary procedure.
- (15) A specific and indicative budget should be reserved for each specific programme.
- (16) In order to ensure that financing be limited to tackling market failures, and with a view to avoiding market distortions, funding from the Framework Programme should comply with the Community State aid rules and the accompanying instruments and the Community definition of SMEs in force.
- (17) The Agreement on the European Economic Area (hereinafter referred to as the EEA Agreement) and Protocols to Association Agreements provide for the participation of the countries concerned in Community programmes. Participation by other third countries should be possible when Agreements and procedures so allow.
- (18) The Framework Programme and the specific programmes should be regularly monitored and evaluated in order to allow for readjustments. Where possible, evaluation reports should examine gender mainstreaming in programme activities.
- (19) Appropriate measures should also 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 Regulations (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests⁽²⁾ and (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ OJ L 312, 23.12.1995, p. 1.

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the European Communities' financial interests against fraud and other irregularities⁽¹⁾ and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)⁽²⁾.

- (20) The growth and competitiveness of enterprises in industrial and service sectors depends on their ability to adjust quickly to change, to exploit their innovative potential and to develop high-quality products. This challenge concerns enterprises of all sizes, but is particularly acute for smaller enterprises. It is therefore appropriate to establish the Entrepreneurship and Innovation Programme.
- (21) The Community can be the catalyst and coordinator of Member States' efforts. It can contribute to, and complement their achievements, in particular by promoting the exchange of national and regional experiences and practices, by defining and disseminating best practices and innovative ideas, and by contributing to the availability of Europe-wide supply of services in support of business and innovation, in particular for SMEs.
- (22) The Commission Communication of 28 January 2004 entitled 'Stimulating Technologies for Sustainable Development: An Environmental Technologies Action Plan for the European Union' calls for Community programmes to support the development and uptake of environmental technologies and calls for the mobilisation of financial instruments to share the risks of investing in environmental technologies.
- (23) To support the creation of a European market for innovative products and services, it is necessary for Member States and the Commission to create attractive conditions for innovative products and services, including through a proactive approach to public procurement in order to help create lead markets, while improving access for SMEs and the quality of public services, and through better regulation and standards based on early anticipation of needs. The Commission should provide guidance on the issue of innovation-friendly public procurement.
- (24) With regard to technological innovation, SMEs should be encouraged to become involved in high-technology sectors such as space and security and to develop applications offered by the Galileo satellite positioning system.
- (25) Eco-innovation is any form of innovation aiming at significant and demonstrable progress towards the goal of sustainable development, through reducing impacts on the environment or achieving a more efficient and responsible use of natural resources, including energy. Eco-innovation is a progressive concept and the Framework Programme must therefore remain responsive to changes. The promotion of eco-innovation through the Framework Programme aims to contribute to the implementation of the Environmental Technologies Action Plan.

⁽¹⁾ OJ L 292, 15.11.1996, p. 2.

⁽²⁾ OJ L 136, 31.5.1999, p. 1.

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- (26) Taking into account the activities of the Environment LIFE+ Programme (LIFE+), the Framework Programme should encourage the uptake of environmental technologies through pilot and market replication projects, bridging the gap between the successful demonstration of innovative technologies and the market uptake and by removing the barriers to market penetration, promoting voluntary approaches in fields such as environmental management, and networking relevant actors. It should support eco-innovation by enterprises through projects and co-investment in risk capital funds, but should not double-fund costs receiving funding under LIFE+.
- (27) Market-based Community financial instruments for SMEs complement and add leverage to financial schemes at the national level. They can particularly foster private investment for the creation of new innovative companies and support companies with a high growth potential in their expansion phase to reduce a recognised equity gap. They can improve access by existing SMEs to loan finances for activities that support their competitiveness and growth potential.
- (28) The European Investment Fund (EIF) is the Community's specialised vehicle for providing risk capital and guarantee instruments for SMEs. It pays special attention to supporting microfinance as well as early-stage finance in accordance with market demand and best practice. It contributes to the pursuit of Community objectives, including a knowledge-based society, innovation, growth, employment and the promotion of entrepreneurial spirit. The EIF ensures the required continuity in the management of Community programmes and has gathered extensive experience therein. The operation by the EIF of Community financial instruments for SMEs on behalf of the Commission has therefore been considered a good practice by independent evaluations. The EIF also has the expertise to support emerging actions based on public-private partnerships launched by Member States aiming at attracting high-risk investment streams from the capital markets to the benefit of innovative small businesses.
- (29) Impending changes in the financial environment and new accounting standards make financial institutions more sensitive to risk, lead to a rating culture, and may tighten the credit supply to SMEs, at least during a transitional phase. The Entrepreneurship and Innovation Programme should therefore respond to the changing financing needs of SMEs, including the need for proximity financing and their adaptation to the new financial environment whilst avoiding market distortions. Furthermore, activities should contribute to enhancing the capabilities of financial institutions to assess risk related to innovation, with a view to developing technology-rating and to improving the capabilities of SMEs to make better use of the financing instruments provided by the markets.
- (30) High-quality services in support of business and innovation play an important role in ensuring SMEs' access to information

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relating to the functioning and opportunities of the internal market for goods and services as well as in the trans-national transfer of innovation, knowledge and technology. They also have a crucial role to play in facilitating SMEs' access to information on Community legislation applying to them and on future legislation for which they can prepare and to which they can adapt in a cost-effective way. Considerable experience and skills have been developed through existing European support networks for businesses, such as the Euro Info Centres and Innovation Relay Centres. External evaluations have stressed that the horizontal role in the delivery of European business support services should be strengthened, including by optimising the cooperation between existing services and help desks with a view to creating a 'one-stop shop' on the basis of a 'no wrong door' commitment. This concerns the dissemination of information on Community programmes and the promotion of the participation of SMEs in those programmes, in particular SMEs' participation in the Seventh Framework RTD Programme. Evaluations have also stressed the importance of facilitating interaction between the Commission and SMEs.

- (31) The Community should equip itself with a sound analytical basis to support policy making in the fields of SMEs, entrepreneurship, innovation and competitiveness in industrial sectors. Such a basis should add value to the information available at the national level in those fields. The Community should provide for the common development of competitiveness strategies for industrial and service sectors, and for the promotion of best practices in relation to an entrepreneurial environment and culture, including skills, corporate social responsibility and equal gender opportunity, and promote through, inter alia, education and continuous training, and from school to higher education, the emergence of young entrepreneurs.

- (32) The Brussels European Council of 20 and 21 March 2003 gave priority to innovation and entrepreneurship and stressed the need for Europe to do more to turn ideas into real added value. It called for further action in order to create the conditions in which business innovates. The linear model of innovation, that assumes that research leads directly to innovation, has proved to be insufficient to explain innovation performance and to design appropriate innovation policy responses. Recognising that enterprises are at the heart of the innovation process, funding to stimulate innovation activities of enterprises and preparing the market-take up of innovation as well as innovation governance and culture should therefore be placed under the Entrepreneurship and Innovation Programme. This should help to ensure that innovation works to promote competitiveness and is carried through into practical application at a business level. The Brussels European Council of 25 and 26 March 2004 added that clean technologies are vital to fully exploit synergies between enterprise and the environment. The promotion of eco-innovation, which includes innovative clean technologies, can help exploit their potential.

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- (33) The market for knowledge transfer and absorption is frequently opaque, and both lack of information and failure to make connections create market barriers. Businesses also find it difficult to incorporate technologies which are not part of their traditional field of activity and to gain access to new types of skills. Financial risks can be high for innovation, profitability may be delayed by development hitches and tax may not be neutral between success and failure. Skills needed to exploit opportunities may be in short supply. Institutional or regulatory obstacles can delay or undermine the emergence of new markets and access to them. Bankruptcy laws may create strong disincentives to assume entrepreneurial risk because of fear of failure. In addition, economic circumstances can determine whether innovation takes place or not. The development of a business environment conducive to entrepreneurship, competitiveness and innovation should include the improvement of enterprise- and innovation-related economic and administrative reform, in particular for increased competitiveness, reduction of administrative burdens for SMEs and a better regulatory environment for entrepreneurship, business creation and business transfer, growth and innovation.
- (34) Those barriers to the market penetration of innovation technologies are particularly relevant for environmental technologies. Market prices too often do not completely reflect the environmental costs of products and services. The part of the costs not reflected in market prices is borne by society as a whole, rather than by the producers of pollution. This market failure, together with the Community interest in preserving resources, preventing pollution and protecting the environment more cost-efficiently, justifies reinforced support for eco-innovation.
- (35) The Community's innovation actions aim to support the development of innovation policy in the Member States and their regions and to facilitate the exploitation of synergies between national, regional and European innovation policy and support activities. The Community is able to facilitate trans-national exchanges, mutual learning and networking and can drive cooperation on innovation policy. Networking among stakeholders is the key to facilitating the flow of knowledge and ideas that are necessary for innovation.
- (36) The Council Resolution endorsed at the Brussels Telecommunications Council of 9 December 2004 provides the basis for the proposal for a new information society initiative to reinforce the contribution of the information society to Europe's performance. In its aforementioned Communication of 2 February 2005, the Commission proposes to focus efforts on 'delivering stronger and lasting growth and creating more and better jobs'. It highlights the uptake of ICT by both the private and public sector as a key element in improving Europe's innovation performance and competitiveness. The ICT Policy Support Programme should therefore be established.

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- (37) Actions under the ICT Policy Support Programme should also contribute to the objectives of the i2010 strategy, while taking into consideration other Community programmes in the field of ICT in order to avoid the duplication of efforts.
- (38) ICT provide the backbone for the knowledge economy. They account for around half of the productivity growth in modern economies and provide unique solutions to address key societal challenges. The improvement of public sector and general interest services needs to be carried out in close collaboration with the relevant Community policies, for example, in the fields of public health, education and training, environment, transport and internal market development and competition.
- (39) The deployment and best use of innovative ICT-based solutions should be stimulated, in particular for services in areas of public interest, including the improvement of the quality of life of disadvantaged groups, such as people with disabilities or elderly people. Community support should also facilitate the coordination and the implementation of actions for developing the information society across the Member States.
- (40) The midterm evaluation of the eTEN (Trans European Network for Telecom) Programme recommends using a demand driven approach for Community intervention to projects supporting trans-European services in areas of public interest.
- (41) The eGovernment and eHealth Communications from the Commission and related Council conclusions called for increased effort in innovation, good practice exchange and interoperability and identified the need for increased synergies between related Community programmes. Interoperability is of great importance to the development of the information society.
- (42) A legislative framework has been defined by Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases ⁽¹⁾, Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society ⁽²⁾ and Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information ⁽³⁾ to deal with the challenges of digital content in the information society.
- (43) Different practices among Member States continue to create technical barriers which impede wide access and re-use of public sector information in the Union.
- (44) Community actions concerning digital content should take account of the Community's multilingual and multicultural specificity.

⁽¹⁾ OJ L 77, 27.3.1996, p. 20.

⁽²⁾ OJ L 167, 22.6.2001, p. 10.

⁽³⁾ OJ L 345, 31.12.2003, p. 90.

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- (45) Natural resources, the prudent and rational utilisation of which is provided for in Article 174 of the Treaty, include, apart from renewable energy sources, oil, natural gas and solid fuels, which are essential energy sources but are also the main sources of carbon dioxide emissions.
- (46) The Commission's Green Paper entitled 'Towards a European strategy for the security of energy supply' noted that the Union is becoming increasingly dependent on external energy sources and that its dependence could rise to 70 % in 20 to 30 years' time. It therefore stressed the need to balance supply policy against clear action for a demand policy and called for better managed and more environmentally friendly consumption, particularly in the transport and building sectors. It also called for priority to be given the development of new and renewable sources on the energy supply side in order to respond to the challenge of global warming and to achieve the target already established by earlier action plans and resolutions of 12 % energy from renewable energy sources in gross internal consumption by 2010.
- (47) Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market⁽¹⁾ requires Member States to set national indicative targets consistent with the Community global indicative target of 12 % of gross national energy consumption by 2010 and in particular with the 22,1 % indicative share of electricity produced from renewable energy sources in total Community electricity consumption by 2010. The Commission Communication of 26 May 2004 entitled 'The share of renewable energy in the EU' warned that the target of a 12 % share of renewable energy in overall energy consumption in the Community in 2010 will not be reached unless considerable additional action is taken.
- (48) Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings⁽²⁾ requires Member States to apply minimum energy performance requirements for new and existing buildings, to ensure the energy certification of buildings and to require the regular inspection of boilers and of air-conditioning systems in buildings.
- (49) Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport⁽³⁾ requires Member States to ensure that a minimum proportion of biofuels and other renewable fuels is placed on their market.

⁽¹⁾ OJ L 283, 27.10.2001, p. 33. Directive as amended by the 2003 Act of Accession.

⁽²⁾ OJ L 1, 4.1.2003, p. 65.

⁽³⁾ OJ L 123, 17.5.2003, p. 42.

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- (50) Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC ⁽¹⁾ requires Member States to carry out analyses of their potential for high-efficiency cogeneration and to set up support schemes that reflect the national potential identified.
- (51) In order to facilitate the implementation of those Community measures, to achieve greater market penetration for renewable energy sources and to improve energy efficiency, there is a need for specific promotion programmes at Community level to create the conditions for moving towards sustainable energy systems, in particular to support the standardisation of equipment which produces or consumes renewable energy sources, to increase technology deployment and to spread best practices in demand side management. The same applies to the Community measures related to the labelling of energy efficiency of electrical, electronic, office and communications equipment and the standardisation of lighting, heating and air-conditioning equipment. The Intelligent Energy — Europe Programme should therefore be established.
- (52) The Intelligent Energy — Europe Programme should contribute to achieving the general objectives of improving energy diversification and security of supply, and enhancing the competitiveness of companies in the Union, in particular SMEs, while protecting the environment and meeting international commitments in this area. Energy efficiency improvement measures in that specific programme should also focus on technological improvements in production processes and propose efficiency gains through improved transport logistics.
- (53) Achieving the full impact of the established strategy for sustainable energy requires not only continuity with Community support to policy development and implementation and removal of existing non-technological barriers through enhanced promotion campaigns, but, above all, support to accelerate investment and stimulate the market uptake of innovative technologies across the Community.
- (54) Alongside environmental advantages, renewable energy sources and energy efficiency are among the fastest growing industries in the Community, creating new and innovative jobs. The European renewable energy industry leads the world in the development of technologies for renewable energy electricity generation. Such technologies benefit economic and social cohesion and avoid the dissipation of resources.
- (55) Decision No 1230/2003/EC will expire on 31 December 2006.

⁽¹⁾ OJ L 52, 21.2.2004, p. 50.

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- (56) Three of the four specific fields of the programme established by Decision No 1230/2003/EC should be continued under this Framework Programme: (i) promoting energy efficiency and the rational use of energy resources (SAVE); (ii) promoting new and renewable energy sources (Altener); and (iii) promoting energy efficiency and the use of new and renewable energy sources in transport (STEER).
- (57) The international dimension (Coopener) of the programme established by Decision No 1230/2003/EC should be continued in the framework of the new Community instruments for external assistance as part of a thematic programme on environment and sustainable management of natural resources, including energy. However, there should be a close relationship between the relevant part of the thematic programme and the Intelligent Energy — Europe Programme in order to help SMEs take advantage of the potential markets for intelligent energy which exist outside Europe.
- (58) In accordance with the principles of good governance and better regulation, the Commission has commissioned independent experts to carry out an ex ante evaluation of a renewed multi-annual Community programme in the field of energy to succeed the ongoing Intelligent Energy — Europe Programme after 31 December 2006. In their report, the experts concluded that there was a need to ensure the continuity of the Intelligent Energy — Europe Programme after 2006, and to renew it in a more comprehensive and ambitious instrument. That programme should be established also with a view to further improving European strength and excellence in the field of sustainable energy technologies and their application.
- (59) Account should be taken of the need to achieve user-friendliness and administrative simplification in implementing the Framework Programme. The Commission should publish and widely diffuse a user manual establishing a clear, simple and transparent framework of general principles for participation of beneficiaries in the Framework Programme. This should in particular facilitate the participation of SMEs. The user manual should describe the rights and obligations of beneficiaries; financial provisions such as eligible costs and support rates; principles governing administrative rules and procedures, in particular user-friendly applications procedures applying a two-stage application process, where appropriate and on the condition that such a procedure does not extend the time period between evaluation and signing of the contract; the rules for use and dissemination of project results; and principles for the evaluation, selection and award of proposals.
- (60) The Commission may use, on the basis of a cost-benefit analysis, a new or an existing executive agency for the implementation of the Framework Programme, as provided for in Council Regulation (EC) No 58/2003 of 19 December 2002 laying down

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the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes ⁽¹⁾.

- (61) The Framework Programme should also support reflection on the future structures and needs for European innovation policies.
- (62) Since the objectives of this Decision concerning the enhancement of the Community's competitiveness and innovation cannot be sufficiently achieved by the Member States because of the need for multilateral partnerships, trans-national mobility and Community-wide exchanges of information, and can therefore, by reason of the nature of the actions and measures necessary, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.
- (63) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (64) Taking into account the nature of the issues to be dealt with under the specific programmes, the Commission should be assisted by different committees for the implementation of each specific programme. Those committees will meet simultaneously on a periodic basis to enable joint sessions to discuss issues of horizontal or common relevance, as identified by the EIP Management Committee together with the Commission.
- (65) In the interest of improving coherence between elements of the Framework Programme and its effectiveness, a Strategic Advisory Board on Competitiveness and Innovation should advise the Commission.
- (66) Decision No 456/2005/EC of the European Parliament and of the Council of 9 March 2005 establishing a multiannual Community programme to make digital content in Europe more accessible, usable and exploitable ⁽³⁾ establishes a multiannual programme, known as the 'eContentplus'. That Decision will expire on 31 December 2008. Measures foreseen to make digital content in Europe more accessible, usable and exploitable should be continued after that date under the ICT Policy Support Programme established by this Decision.
- (67) The measures provided for in Decision 96/413/EC should be integrated into the Entrepreneurship and Innovation Programme. Decision 96/413/EC should therefore be repealed,

⁽¹⁾ OJ L 11, 16.1.2003, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽³⁾ OJ L 79, 24.3.2005, p. 1.

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HAVE DECIDED AS FOLLOWS:

TITLE I

COMMON PROVISIONS

CHAPTER I

*The Competitiveness and Innovation Framework Programme**Article 1***Establishment**

1. A framework programme for Community action in the field of competitiveness and innovation, paying particular attention to the needs of SMEs and covering the period from 1 January 2007 to 31 December 2013 (hereinafter referred to as the Framework Programme), is hereby established.
2. The Framework Programme shall contribute to the competitiveness and innovative capacity of the Community as an advanced knowledge society, with sustainable development based on robust economic growth and a highly competitive social market economy with a high level of protection and improvement of the quality of the environment.
3. The Framework Programme shall not cover research, technological development and demonstration activities carried out in accordance with Article 166 of the Treaty. It shall contribute to closing the gap between research and innovation and promote all forms of innovation.

*Article 2***Objectives**

1. The Framework Programme shall have the following objectives:
 - (a) to foster the competitiveness of enterprises, in particular of SMEs;
 - (b) to promote all forms of innovation including eco-innovation;
 - (c) to accelerate the development of a sustainable, competitive, innovative and inclusive information society;
 - (d) to promote energy efficiency and new and renewable energy sources in all sectors, including transport.
2. The objectives of the Framework Programme shall be pursued through the implementation of the following specific programmes as established in Title II (hereinafter referred to as the specific programmes):
 - (a) the Entrepreneurship and Innovation Programme;
 - (b) the Information and Communications Technologies (ICT) Policy Support Programme;
 - (c) the Intelligent Energy-Europe Programme.

▼B*Article 3***Budget**

1. The financial envelope for the implementing the Framework Programme shall be EUR 3 621 300 000.
2. An indicative budgetary breakdown for the specific programmes is set out in Annex I.
3. The budgetary authority shall authorise the available annual appropriations within the limits of the financial framework.

*Article 4***Participation of third countries**

The Framework Programme shall be open to the participation of:

- (a) European Free Trade Association (EFTA) countries which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA Agreement;
- (b) accession countries and candidate countries benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in Community programmes established in the respective Framework Agreements and Association Council Decisions;
- (c) countries of the Western Balkans, in accordance with the provisions to be determined with those countries following the establishment of Framework Agreements concerning their participation in Community programmes;
- (d) other third countries, when Agreements and procedures so allow.

*CHAPTER II****Implementation of the Framework Programme****Article 5***Annual work programmes**

1. The Commission shall adopt annual work programmes for the specific programmes in accordance with the procedure referred to in Article 46(2), taking into account the need to adjust to future developments, in particular after the interim evaluation.

The Commission shall ensure the implementation of annual work programmes and inform the European Parliament of their preparation and implementation comprehensively and without delay.

2. Amendments to the annual work programmes concerning budgetary allocations of more than EUR 1 million shall be adopted in accordance with the procedure referred to in Article 46(2).



Article 6

Common implementing measures for the Framework Programme

1. The instruments outlined in Section 2 of Chapter I, Section 2 of Chapter II and Section 2 of Chapter III of Title II shall constitute a common toolbox for the Framework Programme. They may also be used to fulfil the objectives of each specific programme as specified in the relevant annual work programme. A comprehensive list of instruments shall be set out in detail in the user manual referred to in Article 47.

2. The funding granted shall fully comply with Community State aid rules and accompanying instruments. Community rules concerning public access to documents shall apply. The principles of transparency and gender mainstreaming shall be taken into account.

Article 7

Technical assistance

The financial envelope established under this Decision may also cover necessary expenditure related to preparatory action, monitoring, control, audit and evaluation directly necessary for the effective and efficient implementation of this Decision and for the achievement of its objectives.

Such action may, in particular, include studies, meetings, information activities, publications, expenditure on informatics tools, systems and networks for the exchange and processing of information, and any other expenditure on technical, scientific and administrative assistance and expertise to which the Commission may need to have recourse for the purposes of the implementation of this Decision.

Article 8

Monitoring and evaluation

1. The Commission shall regularly monitor the implementation of the Framework Programme and its specific programmes. It shall also examine synergies within the Framework Programme and with other complementary Community programmes and, where possible, synergies with national programmes co-funded by the Union. Where possible, it shall examine the gender dimension and the respect of the principle of non-discrimination in programme activities.

The Commission shall draw up an annual implementation report for the Framework Programme and for each specific programme examining the supported activities in terms of financial implementation, results and, where possible, impact. The annual report on the Entrepreneurship and Innovation Programme shall clearly identify eco-innovation activities.

2. The Framework Programme and its specific programmes shall be subject to interim and final evaluations. Such evaluations shall examine issues such as relevance, coherence and synergies, effectiveness, efficiency, sustainability, utility and, where possible and appropriate,

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distribution of funding with regard to sectors. The final evaluation shall, in addition, examine the extent to which the Framework Programme as a whole, and each of its specific programmes, has achieved its objectives.

Both interim and final evaluations shall adopt appropriate methodologies to measure the impact of the Framework Programme, and each of the specific programmes, against its objectives, including competitiveness, innovation, entrepreneurship, productivity growth, employment and environment.

Such evaluations shall examine the quality of the services referred to in Article 21(2) provided by the network partners. The interim evaluations may also include ex post evaluation elements with regard to previous programmes.

3. The interim and final evaluations of the specific programmes and the necessary budgetary allocations shall be included in the respective annual work programmes.

The annual work programmes shall define a set of measurable objectives for each specific action and develop appropriate evaluation criteria and a set of quantitative and qualitative indicators to measure effectiveness in delivering outcomes that will contribute to the achievement of the objectives of the Framework Programme as a whole and the objectives of the relevant specific programme.

The interim and final evaluation of the Framework Programme and the necessary budgetary allocations shall be included in the annual work programme for the Entrepreneurship and Innovation Programme.

4. The interim evaluation of the Framework Programme shall be completed by 31 December 2009 and the final evaluation by 31 December 2011.

The interim and final evaluations of the specific programmes shall be arranged in such a way that their results can be taken into account in the interim and final evaluation of the Framework Programme.

5. The Commission shall communicate the annual implementation reports, the results of the interim and final evaluations of the Framework Programme and of its specific programmes to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

▼ M1

5a. Without prejudice to paragraphs 1 to 5, for projects carried out under the risk-sharing instrument for project bonds referred to in Article 31(2), the Commission and the European Investment Bank (EIB) shall submit an interim report to the European Parliament and the Council in the second half of 2013. An independent full-scale evaluation shall be carried out in 2015.

On the basis of that evaluation, the Commission shall assess the relevance of the Europe 2020 Project Bond Initiative and its effectiveness in increasing the volume of investments in priority projects and enhancing the efficiency of Union spending. In the light of that assessment, taking into account all options, the Commission shall consider proposing appropriate regulatory changes, including legislative changes, in particular if the predicted market uptake is not satisfactory or in the event that alternative sources of long-term debt financing become sufficiently available.

▼ M1

The interim report referred to in the first subparagraph shall include a list of the projects which have benefited from the risk-sharing instrument for project bonds referred to in Article 31(2a) to (2e), with information on the terms of the bonds issued and the types of current and potential future investors.

▼ B*Article 9***Protection of the Communities' financial interests**

1. The Commission shall ensure that, when actions financed under this Decision are implemented, the financial interests of the Community are protected by the application of measures to prevent fraud, corruption and any other illegal activities, by effective checks and by the recovery of amounts unduly paid and, if irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Regulation (EC, Euratom) No 2988/95, Regulation (Euratom, EC) No 2185/96, and Regulation (EC) No 1073/1999.

2. For the Community actions financed under this Decision, Regulation (EC, Euratom) No 2988/95 and Regulation (Euratom, EC) No 2185/96 shall apply to any infringement of a provision of Community law, including infringements of a contractual obligation stipulated on the basis of the Framework Programme, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by it, by an unjustified item of expenditure.

3. All implementing measures resulting from this Decision shall provide, in particular, for supervision and financial control by the Commission or any representative authorised by it, and by audits by the European Court of Auditors, if necessary on-the-spot audits.

TITLE II

THE SPECIFIC PROGRAMMES

CHAPTER I

The Entrepreneurship and Innovation Programme

Section 1

Objectives and fields of action*Article 10***Establishment and objectives**

1. The Entrepreneurship and Innovation Programme in support of enterprise, particularly SMEs, entrepreneurship, innovation, including eco-innovation and industrial competitiveness is hereby established.

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2. The Entrepreneurship and Innovation Programme shall provide for action to support, improve, encourage and promote:

- (a) access to finance for the start-up and growth of SMEs and investment in innovation activities;
- (b) the creation of an environment favourable to SME cooperation, particularly in the field of cross-border cooperation;
- (c) all forms of innovation in enterprises;
- (d) eco-innovation;
- (e) entrepreneurship and innovation culture;
- (f) enterprise and innovation-related economic and administrative reform.

*Article 11***Access to finance for the start-up and growth of SMEs**

Action in relation to access to finance for the start-up and growth of SMEs and for investment in innovation activities, including eco-innovation, may include:

- (a) increasing the investment volumes of risk capital funds and investment vehicles promoted by business angels;
- (b) providing leverage to SME debt financing instruments;
- (c) improving the financial environment for, and the investment readiness of, SMEs.

*Article 12***SME cooperation**

Action in relation to SME cooperation may include:

- (a) fostering services in support of SMEs;
- (b) contributing to measures helping and encouraging SMEs to cooperate with other enterprises and other innovation actors across borders, including SME involvement in the field of European and international standardisation;
- (c) promoting and facilitating international business cooperation, including at regional level and through SME networks favouring the coordination and development of their economic and industrial activities.

*Article 13***Innovation activities**

Action in relation to innovation may include:

- (a) fostering sector-specific innovation, clusters, innovation networks, public-private innovation partnerships and cooperation with relevant international organisations, and the use of innovation management;

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- (b) supporting national and regional programmes for business innovation;
- (c) supporting the take-up of innovative technologies and concepts and the innovative application of existing technologies and concepts;
- (d) supporting services for trans-national knowledge and technology transfer and for the protection and management of intellectual and industrial property;
- (e) developing and exploring new types of innovation services;
- (f) fostering technology and knowledge through data archiving and transfer.

*Article 14***Eco-innovation activities**

Action in relation to eco-innovation may include:

- (a) supporting the take-up of environmental technologies and eco-innovative activities;
- (b) co-investment in risk capital funds that provide equity, *inter alia*, for companies investing in eco-innovation in accordance with the procedure laid down in Annex II;
- (c) fostering eco-innovation networks and clusters and public-private partnerships in eco-innovation, developing innovative business services, and facilitating or promoting eco-innovation;
- (d) promoting new and integrated approaches to eco-innovation in fields such as environmental management and the environmentally friendly design of products, processes and services, taking into account their whole life cycle.

*Article 15***Entrepreneurship and innovation culture**

Action in relation to entrepreneurship and innovation culture may include:

- (a) encouraging entrepreneurial mindsets, skills and culture, and the balancing of entrepreneurial risk and reward, in particular for women and young people;
- (b) encouraging a business environment favourable to innovation, enterprise development and growth;
- (c) supporting policy development and cooperation between actors, including trans-national cooperation of national and regional programme managers, in particular with a view to fostering the SME-friendliness of programmes and measures;
- (d) encouraging the creation and transfer of enterprises.

▼B*Article 16***Enterprise and innovation-related economic and administrative reform**

Action in relation to enterprise and innovation-related economic and administrative reform may include:

- (a) collecting data, analysing and monitoring performance, and developing and coordinating policy;
- (b) contributing to the definition and promotion of competitiveness strategies related to industry and service sectors;
- (c) supporting mutual learning for excellence in national, regional and local administrations.

Section 2**Implementation***Article 17***Community financial instruments for SMEs**

1. Community financial instruments shall be operated with the aim of facilitating access to finance for SMEs in certain phases of their life cycle: seed, start-up, expansion and business transfer. Investments made by SMEs in activities such as technological development, innovation, including eco-innovation, and technology transfer and the cross-border expansion of their business activities shall be included in the scope of the relevant instruments.

2. The instruments referred to in paragraph 1 shall be the following:

- (a) the High Growth and Innovative SME Facility (GIF);
- (b) the SME Guarantee (SMEG) Facility;
- (c) the Capacity Building Scheme (CBS).

3. Implementation arrangements concerning the different instruments are laid down in Annex II.

*Article 18***The GIF**

1. The GIF shall be operated by the European Investment Fund (EIF) on behalf of the Commission.

The GIF shall carry out the following tasks:

- (a) contributing to the establishment and financing of SMEs and the reduction of the equity and risk capital market gap, which prevents SMEs from exploiting their growth potential, with a view to improving the European venture capital market;
- (b) supporting innovative SMEs with high growth potential, in particular those undertaking research, development and other innovation activities.

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2. The GIF shall consist of two windows, as follows:
- the first window, ‘GIF1’, shall cover early stage (seed and start-up) investments. It shall invest in specialised venture capital funds such as early stage funds, funds operating regionally, funds focused on specific sectors, technologies or research and technological development and funds linked to incubators, which shall in turn provide capital to SMEs. It may also co-invest in funds and investment vehicles promoted by business angels,
 - the second window, ‘GIF2’, shall cover expansion stage investments and shall invest in specialised risk capital funds, which in turn shall provide quasi-equity or equity for innovative SMEs with high growth potential in their expansion phase. GIF2 investments shall avoid buy-out or replacement capital intended for asset stripping.

GIF may invest in intermediaries by working, where appropriate, with national or regional schemes aimed at developing small business investment companies.

In addition to the funding provided by GIF, the majority of the capital invested in any fund shall be provided by investors operating in circumstances corresponding to the market economy investor principle, irrespective of the legal nature and ownership structure of those investors.

*Article 19***The SMEG Facility**

1. The SMEG Facility shall be operated by the EIF on behalf of the Commission.

The SMEG Facility shall carry out the following tasks:

- (a) providing counter-guarantees or, where appropriate, co-guarantees for guarantee schemes operating in the eligible countries;
- (b) providing direct guarantees for any other appropriate financial intermediary.

2. The SMEG Facility shall consist of four windows, as follows:
- the first window, (a) debt financing via loans or leasing, shall reduce the particular difficulties SMEs face in accessing finance either due to the perceived higher risk associated with investments in certain knowledge-related activities such as technological development, innovation and technology transfer or due to the lack of sufficient collateral,
 - the second window, (b) microcredit financing, shall encourage financial institutions to play a greater role in the provision of loans of a smaller amount which would normally involve proportionately higher unit handling costs for borrowers with insufficient collateral. In addition to guarantees or counter-guarantees, financial intermediaries may receive grants to partially offset the high administrative costs inherent in microcredit financing,

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- the third window, (c) guarantees for equity or quasi-equity investments in SMEs, shall include investments which provide seed capital and/or capital in the start-up phase, as well as mezzanine financing, in order to reduce the particular difficulties which SMEs face because of their weak financial structure and those arising from business transfers,
- the fourth window, (d) securitisation of SME debt finance portfolios, shall mobilise additional debt financing for SMEs under appropriate risk-sharing arrangements with the targeted institutions. Support for those transactions shall be conditional upon an undertaking by the originating institutions to grant a significant part of the resulting liquidity of the mobilised capital for new SME lending in a reasonable period of time. The amount of this new debt financing shall be calculated in relation to the amount of the guaranteed portfolio risk and shall be negotiated, together with the period of time, individually with each originating institution.

*Article 20***The CBS**

1. The CBS shall be operated with international financial institutions, including the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB), the EIF and the Council of Europe Development Bank (CEB).

The CBS shall carry out the following tasks:

- (a) improving the investment and technology expertise of funds and other financial intermediaries investing in innovative SMEs or SMEs with growth potential;
- (b) stimulating the supply of credit to SMEs by enhancing the credit appraisal procedures for SME lending.

2. The CBS shall consist of the Seed Capital Action and the Partnership Action.

The Seed Capital Action shall provide grants to stimulate the supply of venture capital for innovative SMEs and other SMEs with growth potential, including those in the traditional economy, through support for seed and start-up funds or similar organisations. Support may also be provided for the long-term recruitment of additional staff with specific investment or technology expertise.

The Partnership Action shall provide grants to financial intermediaries to cover the cost of technical assistance to improve their credit appraisal procedures for SME debt financing, in order to stimulate the supply of finance to SMEs in countries with low banking intermediation.

For the purpose of the Partnership Action ‘low intermediation’ shall relate to banking in countries where domestic credit as a percentage of Gross Domestic Product is significantly below the Community average according to relevant data established by the European Central Bank or the International Monetary Fund.

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The Partnership Action shall accompany the credit lines or the risk-sharing provided by international financial institutions to partner banks or financial institutions from the eligible countries. A significant part of the action shall relate to improving banks' and other financial institutions' capacity to assess the commercial viability of projects with a significant eco-innovation component.

*Article 21***Services in support of business and innovation**

1. Services in support of business and innovation, in particular for SMEs, shall be encouraged.
2. Taking into account the established experience and skills of existing European business support networks, financial support may be granted to network partners to provide, in particular:
 - (a) information, feedback, business cooperation and internationalisation services;
 - (b) services for innovation and for the transfer of both technology and knowledge;
 - (c) services encouraging the participation of SMEs in the Seventh Framework RTD Programme.

Details concerning such services are laid down in Annex III.

3. The Commission shall select network partners through calls for proposals in relation to the various services referred to in paragraph 2. Following those calls for proposals the Commission may establish a framework partnership agreement with selected network partners specifying the type of activities to be offered, the procedure for awarding grants to them and the general rights and obligations of each party. The framework partnership may cover the duration of the programme.
4. In addition to the services referred to in paragraph 2, the Commission may provide financial support for the implementation of other activities within the scope of the Framework Programme following calls for proposals which may be restricted to the network partners. Such services shall ensure that interested parties and potential applicants may obtain comprehensive assistance relating to the possibilities for support under the Framework Programme.
5. The Commission shall support the network partners by making available the appropriate coordination and operational support. Organisations established in countries which are not participating in the Framework Programme may be permitted to benefit from that coordination and operational support.
6. The Commission shall ensure that network partners cooperate with each other and, in the event that a network partner is unable to address an enquiry directly, it shall refer the enquiry to a competent network partner.

▼ B*Article 22***Innovation and eco-innovation pilot and market replication projects**

The Community shall provide support to projects concerned with the first applications or market replication of innovative or eco-innovative techniques, products or practices of Community relevance, which have already been technically demonstrated with success but which, owing to residual risk, have not yet significantly penetrated the market. These shall be designed to promote broader utilisation of such techniques, products or practices within the participating countries and facilitate their market uptake.

*Article 23***Policy analyses, development, coordination and twinning**

The following may be undertaken in support of policy analyses, development and coordination with participating countries:

- (a) studies, data collection, surveys and publications, based where possible on official statistics;
- (b) twinings and meetings of experts, including experts from public institutions, experts sent by SMEs and other interested parties, conferences and other events;
- (c) awareness raising, networking and other relevant activities;
- (d) benchmarking of national and regional performances, and work on good practices, including their dissemination and implementation.

*Article 24***Entrepreneurship and Innovation Programme support measures**

The Commission shall regularly undertake the following:

- (a) analysis and monitoring of competitiveness and sectoral issues, including for the Commission's annual report on the competitiveness of European industry;
- (b) preparation of impact assessments of Community measures of particular relevance for the competitiveness of enterprises and their publication with a view to identifying areas of existing legislation requiring simplification or the need for new legislative measures to make innovation more attractive in the Community;
- (c) evaluation of specific aspects or specific implementation measures in relation to the Entrepreneurship and Innovation Programme;
- (d) dissemination of appropriate information in relation to the Entrepreneurship and Innovation Programme.

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Section 3

Annual work programme*Article 25***Annual work programme**

The annual work programme shall set out in detail, and in line with the objectives set out in Article 10:

- (a) measures needed for its implementation;
- (b) priorities;
- (c) qualitative and quantitative objectives;
- (d) appropriate evaluation criteria and qualitative and quantitative indicators for analysing effectiveness in delivering outcomes that will contribute to the achievement of the objectives of the specific programmes and the Framework Programme as a whole;
- (e) operational timetables;
- (f) the rules for participation;
- (g) the criteria for the selection and evaluation of the measures.

The annual work programme shall clearly identify measures promoting eco-innovation.

Activities under Article 24 shall not be covered by the annual work programme.

CHAPTER II

The ICT Policy Support Programme

Section 1

Objectives and fields of action*Article 26***Establishment and objectives**

1. The ICT Policy Support Programme in support of ICT policy is hereby established.
2. The ICT Policy Support Programme shall provide for the following actions:
 - (a) development of the Single European information space and strengthening of the internal market for ICT products and services and ICT-based products and services;

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- (b) stimulation of innovation through the wider adoption of, and investment in, ICT and broadband;

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- (c) development of an inclusive information society and more efficient and effective services in areas of public interest, and improvement of quality of life.

▼B

3. The actions referred to in paragraph 2 shall be carried out with a particular emphasis on the promotion and awareness-raising of the opportunities and benefits of ICT for citizens, public authorities and businesses, in particular SMEs.

*Article 27***The single European information space**

Action in relation to the single European information space shall aim to:

- (a) ensure seamless access to ICT-based services and establish appropriate framework conditions for the rapid, appropriate and effective convergence of digital communications and services, incorporating, inter alia, interoperability, the use of open standards, and security and trust aspects;
- (b) improve the conditions for the development of digital content, taking into account multilingualism and cultural diversity;
- (c) monitor the European information society, through data collection and analysis of the development, availability and use of digital communication services, including the growth of internet, access to and take-up of broadband as well as developments of content and services.

*Article 28***Innovation through the wider adoption of and investment in ICT**

Action in relation to innovation through the wider adoption of and investment in ICT shall aim to:

- (a) promote innovation in processes, services and products enabled by ICT, in particular in SMEs and public services, taking into account the necessary skills requirements;
- (b) facilitate public and private interaction as well as partnerships for accelerating innovation and investments in ICT;
- (c) promote and raise awareness of the opportunities and benefits of ICT and its new applications for citizens and businesses, including enhancing confidence in and openness to new ICT, and stimulating debate at the European level on emerging ICT trends and developments.

*Article 29***An inclusive information society, more efficient and effective services in areas of public interest and improved quality of life**

Actions in relation to the development of an inclusive information society and more efficient and effective services in areas of public interest, and the improvement of quality of life shall aim to:

- (a) widen ICT, including digital content, accessibility and digital literacy;

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- (b) reinforce trust and confidence as well as support of ICT use, addressing, in particular, privacy concerns;
- (c) improve the quality, efficiency, availability and accessibility of electronic services in areas of public interest and for ICT-enabled participation, including, where appropriate, interoperable pan-European or cross-border public services as well as the development of common interest building blocks and the sharing of good practices.

Section 2

Implementation

Subsection 1

Implementation of projects, best practice actions and thematic networks*Article 30***General**

The ICT Policy Support Programme may be implemented by projects, best practice actions and thematic networks, including actions for wide-scale testing and demonstration of innovative public services with a pan-European dimension.

Projects, best practice actions and thematic networks shall aim to stimulate the deployment and best use of innovative ICT-based solutions, in particular for services in areas of public interest and for SMEs. Community support shall also facilitate the coordination and the implementation of actions for developing the information society across the Member States.

*Article 31***Projects, best practice actions and thematic networks**

1. The following shall be supported:
 - (a) projects including implementation, pilot and market replication projects;
 - (b) best practice actions to spread knowledge and share experience across the Community;
 - (c) thematic networks bringing together a variety of stakeholders around a given objective so as to facilitate coordination activities and the transfer of knowledge.

▼M1

2. The projects referred to in paragraph 1(a) shall aim to promote innovation, technology transfer and the dissemination of new technologies that are ready for market uptake.

The Union may award a grant to contribute to the budget of those projects.

▼ M1

The Union may, alternatively, make, during a pilot phase in 2012 and 2013, a financial contribution to the EIB towards the provisioning and capital allocation for debt instruments or guarantees to be issued by the EIB from its own resources under the risk-sharing instrument for project bonds.

2a. The risk-sharing instrument for project bonds referred to in the third subparagraph of paragraph 2 is a joint instrument by the Commission and the EIB which provides added value as a Union intervention, addresses sub-optimal investment situations when projects do not receive adequate financing from the market, and provides additionality. It avoids distortion of competition, aims to secure a multiplier effect and aligns interests in the form of a credit enhancement. The risk-sharing instrument for project bonds shall:

- (a) take the form of a debt instrument or a guarantee granted by the EIB with the support of a Union budget contribution in favour of financing provided to projects in the field of ICT and broadband, complementing or attracting financing by Member States or the private sector;
- (b) mitigate the debt service risk of a project and the credit risk of bond holders;
- (c) be used only for projects whose financial viability is based on project revenues.

2b. The Union exposure to the risk-sharing instrument for project bonds, including management fees and other eligible costs, shall in no case exceed the amount of the Union contribution to the risk-sharing instrument for project bonds nor extend beyond the maturity of the underlying portfolio of credit enhancement facilities. There shall be no further liability on the general budget of the Union. The residual risk related to project bond operations shall always be borne by the EIB.

2c. The main terms, conditions and procedures of the risk-sharing instrument for project bonds are laid down in Annex IIIa. The detailed terms and conditions for implementing the risk-sharing instrument for project bonds, including risk sharing, remuneration, monitoring and control, shall be laid down in a cooperation agreement between the Commission and the EIB. That cooperation agreement shall be approved by the Commission and the EIB according to their respective procedures.

2d. In 2013, an amount of up to EUR 20 million may be used from the budget allocated for the pursuance of ICT and broadband policy in accordance with the rule set out in point (b) of Annex I. Given the limited duration of the pilot phase, the risk-sharing instrument for project bonds may reuse any revenues received before 31 December 2013 for new debt instruments and guarantees within the same risk-sharing facility and for projects fulfilling the same eligibility criteria in order to maximise the volume of investments supported. In the event that the risk-sharing instrument for project bonds is not extended into the next multiannual financial framework, any remaining funds shall be returned to the revenue side of the general budget of the Union.

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2e. In addition to the reporting requirements set out in point 49 of the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management, and without prejudice to any other regulatory reporting requirements, the Commission shall report to the European Parliament and the Council every six months during the pilot phase on the performance of the risk-sharing instrument for project bonds, including the financial terms and placement of any project bonds issued.

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3. The best practice actions shall be conducted in clusters addressing specific themes and linked through thematic networks.

The Community contribution for the actions referred to in paragraph 1(b) shall be limited to the direct costs deemed necessary or appropriate for achieving the specific objectives of the action.

4. The thematic networks may be linked to best practice actions.

Support for thematic activities shall be granted towards the additional eligible costs of coordinating and implementing the network. The Community contribution may cover the additional eligible costs of those measures.

Subsection 2

Other provisions*Article 32***Applications**

Applications for Community support for projects, best practice actions and thematic networks referred to in Article 31 shall include a financial plan listing all the components of the funding of the projects, including the financial support requested from the Community, and any other requests for support from other sources. Applicants making applications for other forms of Community support such as services or studies may also be required to provide information concerning the financial plan where appropriate.

*Article 33***Policy analyses, development and coordination with participating countries**

The following shall be undertaken in support of policy analyses, development and coordination with participating countries:

- (a) studies, data collection, surveys, and publications, based, where possible, on official statistics;
- (b) meetings of experts, including experts from public institutions, experts sent by SMEs and other interested parties, conferences and other events;
- (c) awareness-raising, networking and other relevant activities;
- (d) benchmarking of national performances and work on good practices, including their dissemination and implementation.

*Article 34***Promotion, communication, information sharing and dissemination**

1. The following shall be undertaken in support of the implementation of the ICT Policy Support Programme or the preparation of future activities:

- (a) promotion, dissemination, information and communication activities;
- (b) exchange of information, knowledge and experience, the staging of conferences, seminars, workshops or other meetings and the management of clustered activities.

2. Measures devoted to the commercialisation of products, processes or services, marketing activities and sales promotion shall not be eligible for support.

*Article 35***Projects of common interest: procurement based on technical specifications determined in coordination with Member States**

Where it is necessary in order to achieve the objectives of the ICT Policy Support Programme, and where there is a clear common interest of Member States as concerns European-level deployment of products, services, core service components or building blocks, the Commission may establish projects of common interest comprising necessary technical and organisational tasks. Existing initiatives shall be taken into consideration in order to avoid the duplication of efforts.

The Commission shall, in coordination with the Member States, agree on common technical specifications and implementation schedules for such projects. On the basis of those common technical specifications and implementation schedules, the Commission shall issue calls for tender for implementation of the projects concerned. Such calls for tender shall be carried out solely by the Commission in accordance with Community procurement rules.

Section 3**Annual work programme***Article 36***Annual work programme**

The annual work programme shall set out in detail, and in line with the objectives set out in Article 26:

- (a) measures needed for its implementation;
- (b) priorities;
- (c) qualitative and quantitative objectives;
- (d) appropriate evaluation criteria and qualitative and quantitative indicators for analysing effectiveness in delivering outcomes that will contribute to the achievement of the objectives of the specific programmes and the Framework Programme as a whole;

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- (e) operational timetables;
- (f) the rules for participation;
- (g) the criteria for the selection and evaluation of the measures.

*CHAPTER III****The Intelligent Energy-Europe Programme*****Section 1****Objectives and fields of action***Article 37***Establishment and objectives**

1. The Intelligent Energy — Europe Programme in support of energy efficiency, renewable energy sources and energy diversification is hereby established. The programme shall contribute to ensuring secure, sustainable energy for Europe, while enhancing European competitiveness.
2. The Intelligent Energy — Europe Programme shall provide for action, in particular:
 - (a) to foster energy efficiency and the rational use of energy resources;
 - (b) to promote new and renewable energy sources and to support energy diversification;
 - (c) to promote energy efficiency and the use of new and renewable energy sources in transport.

*Article 38***Operational objectives**

In operational terms the Intelligent Energy — Europe Programme shall aim to:

- (a) provide the elements necessary for the improvement of sustainability, the development of the potential of cities and regions, as well as for the preparation of the legislative measures needed to attain the related strategic objectives; develop the means and instruments to follow up, monitor and evaluate the impact of the measures adopted by the Community and its Member States in the fields addressed by that programme;
- (b) boost investment across Member States in new and best performing technologies in the fields of energy efficiency, renewable energy sources and energy diversification, including in transport, by bridging the gap between the successful demonstration of innovative technologies and their effective, broad market uptake in order to attain leverage of public and private sector investment, promote key strategic technologies, bring down costs, increase market experience and contribute to reducing the financial risks and other perceived risks and barriers that hinder this type of investment;

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- (c) remove the non-technological barriers to efficient and intelligent patterns of energy production and consumption by promoting institutional capacity building at, inter alia, local and regional level, by raising awareness, notably through the educational system, by encouraging exchanges of experience and know-how among the main players concerned, business and citizens in general and by stimulating the spread of best practices and best available technologies, notably by means of their promotion at Community level.

*Article 39***Energy efficiency and rational use of resources (SAVE)**

Action to foster energy efficiency and the rational use of energy resources may include:

- (a) improvement of energy efficiency and the rational use of energy, in particular in the building and industry sectors, with the exception of actions covered by Article 41;
- (b) supporting the preparation of legislative measures and their application.

*Article 40***New and renewable resources (Altener)**

Action to promote new and renewable energy resources may include:

- (a) promoting new and renewable energy sources for centralised and decentralised production of electricity, heat and cooling, and thus supporting the diversification of energy sources, with the exception of actions covered by Article 41;
- (b) integrating new and renewable energy sources into the local environment and the energy systems;
- (c) supporting the preparation of legislative measures and their application.

*Article 41***Energy in transport (STEER)**

Action to promote energy efficiency and the use of new and renewable energy sources in transport may include:

- (a) supporting initiatives relating to all energy aspects of transport, and the diversification of fuels;
- (b) promoting renewable fuels and energy efficiency in transport;
- (c) supporting the preparation of legislative measures and their application.

▼B*Article 42***Integrated initiatives**

Action to combine several of the specific fields referred to in Articles 39, 40 and 41, or relating to certain Community priorities, may include:

- (a) integrating energy efficiency and renewable energy sources in several sectors of the economy;
- (b) combining various instruments, tools and actors within the same action or project.

Section 2**Implementation***Article 43***Promotion and dissemination projects**

The following shall be supported:

- (a) strategic studies on the basis of shared analysis and regular monitoring of market developments and energy trends for the preparation of future legislative measures or for the review of existing legislation, including with regard to the functioning of the internal energy market, for the implementation of the medium and long-term strategy in the energy field to promote sustainable development, as well as for the preparation of long-term voluntary commitments with industry and other stake-holders and for the development of standards, labelling and certification systems, where appropriate also in cooperation with third countries and international organisations;
- (b) creation, enlargement or reorganisation of structures and instruments for sustainable energy development, including local and regional energy management, and the development of adequate financial products and market instruments, building on experience from past and present networks;
- (c) promotion of sustainable energy systems and equipment in order to further accelerate their penetration of the market and stimulate investment to facilitate the transition from the demonstration to the marketing of more efficient technologies, awareness campaigns and the creation of institutional capabilities;
- (d) development of information, education and training structures, the utilisation of results, the promotion and dissemination of know-how and best practices involving all consumers, dissemination of results of the actions and projects and cooperation with the Member States through operational networks;
- (e) monitoring of the implementation and the impact of Community legislative and support measures.

▼B*Article 44***Market replication projects**

The Community shall provide support to projects concerned with the market replication of innovative techniques, processes, products or practices of Community relevance, which have already been technically demonstrated with success. These shall be designed to promote broader utilisation of such techniques, processes, products or practices within the participating countries and facilitate their market uptake.

Section 3**Annual work programme***Article 45***Annual work programme**

The annual work programme shall set out in detail, and in line with the objectives set out in Article 37:

- (a) measures needed for its implementation;
- (b) priorities;
- (c) qualitative and quantitative objectives;
- (d) appropriate evaluation criteria and qualitative and quantitative indicators to analyse effectiveness in delivering outcomes that will contribute to the achievement of the objectives of the specific programmes and the Framework Programme as a whole;
- (e) operational timetables;
- (f) the rules for participation;
- (g) the criteria for the selection and evaluation of the measures.

TITLE III**GENERAL AND FINAL PROVISIONS***Article 46***Committees**

1. The Commission shall be assisted by the following Committees:
 - (a) the Committee for the Entrepreneurship and Innovation Programme, called the EIP Management Committee (EIPC);
 - (b) the Committee for the ICT Policy Support Programme, called the ICT Management Committee (ICTC);
 - (c) the Committee for the Intelligent Energy Europe Programme, called the IEE Management Committee (IEEC).

Full coordination and cooperation across the whole Framework Programme, including strategic management, and coherent overall implementation, shall be ensured by the Commission, assisted by the EIPC, in close collaboration with the ICTC and the IEEC.

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2. For the committees referred to in paragraph 1, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committees referred to in paragraph 1 shall adopt their rules of procedure.

*Article 47***User manual**

1. After the entry into force of the Framework Programme, the Commission shall publish a readable and user-friendly user manual establishing a clear, simple and transparent framework of general principles for the participation of beneficiaries in the Framework Programme. The user manual shall, in particular, facilitate the participation of SMEs.

2. The Commission shall ensure that the time between the submission of applications and the notification of evaluation results is as short as possible. The evaluation result shall be sent out within a reasonable time.

*Article 48***Strategic Advisory Board on Competitiveness and Innovation**

The Commission shall be advised by a Strategic Advisory Board on Competitiveness and Innovation composed of representatives of industry and business associations, including those representing SMEs, and other experts. Their expertise should be related to the sectors and issues addressed by the Framework Programme, including financing, ICT, energy and eco-innovation.

*Article 49***Repeal**

Decision 96/413/EC is hereby repealed.

*Article 50***Transitional measures**

The implementation measures in pursuance of the objective set out in Article 27(b) shall be carried out under Decision No 456/2005/EC until 31 December 2008.

Thereafter, the actions initiated under Decision No 456/2005/EC on or before that date shall be administered in accordance with that Decision, except that the Committee established by that Decision shall be replaced by the ICTC established by Article 46(1)(b) of this Decision.

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For services referred to in Article 21(2)(a), the Commission may, until 31 December 2007, continue operating the Euro Info Centre Network and concluding annual specific grant agreements with its members, funded under this Framework Programme, and maintain the operational arrangements of the multiannual programme for enterprise and entrepreneurship established by Decision 2000/819/EC.

*Article 51***Entry into force**

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

▼B*ANNEX I***Indicative budgetary breakdown**

The indicative budgetary allocations for the specific programmes shall be the following:

- (a) 60 % of the overall budget for the pursuance of the Entrepreneurship and Innovation Programme, of which approximately one fifth shall be allocated to promoting eco-innovation;
- (b) 20 % of the overall budget for the pursuance of the ICT Policy Support Programme;
- (c) 20 % of the overall budget for the pursuance of the Intelligent Energy — Europe Programme.

*ANNEX II***Implementation arrangements for the Community financial instruments for SMEs referred to in Article 17****1. ARRANGEMENTS COMMON TO ALL COMMUNITY FINANCIAL INSTRUMENTS FOR SMES****A. Budget**

The budgetary allocation shall cover the full cost of each instrument, including payment obligations towards financial intermediaries such as losses from guarantees, management fees for the EIF and the international financial institutions managing the Union's resources, as well as any other eligible costs or expenses.

The transfer of resources between instruments shall be kept flexible in order to respond to new developments and changing market conditions during the Framework Programme.

B. Trust accounts

Separate Trust accounts shall be set up by the EIF and the relevant international financial institutions to hold the budgetary funds relating to each instrument. Such accounts may be interest-bearing. Interest received on or before 31 December 2013 may be added to the resources and can be used for the purpose of the respective instrument.

Payments made by the trustee to honour payment obligations towards financial intermediaries shall be debited from the corresponding Trust account. Amounts to be paid back by the trustee to the general budget of the European Union, the trustee's management fees and other eligible costs and expenses shall be debited from the Trust account in accordance with the terms set out in the agreements between the Commission and the trustee. The Trust account shall be credited with receipts originating from the Commission, interest and, depending on the instrument, with the proceeds of realised investments (GIF) or with commitment and guarantee fees as well as other receivables (SMEG Facility).

After 31 December 2013, any balances on the Trust accounts, other than funds committed and not yet debited and funds reasonably required to cover eligible costs and expenses, shall be returned to the general budget of the European Union.

C. Fees

An appropriate fee policy shall apply to the operation of the instruments. The fees shall be established by the Commission in line with market practices and shall take into account:

- the overall duration of the respective instrument and the corresponding monitoring requirements which extend beyond the budgetary commitment period,
- the eligible countries,
- the degree of novelty and complexity of the instrument,
- the associated number of activities such as market research, identification of and negotiations with intermediaries, structuring of deals, closing, monitoring and reporting.

D. Visibility and awareness-raising

Each intermediary shall provide an appropriate level of visibility and transparency to the support given by the Community, including adequate information on the financial opportunities made available by the Framework Programme.

It shall be ensured that the final beneficiaries are adequately informed of the available financing opportunities.

▼B**2. IMPLEMENTATION OF THE GIF****A. Introduction**

Fiduciary, management and monitoring aspects shall be agreed between the Commission and the EIF. The Commission shall apply specific guidelines on treasury management.

B. Intermediaries

GIF1 and GIF2 shall target commercially oriented intermediaries managed by independent teams combining the appropriate mix of skills and experience. The intermediaries shall be selected in conformity with best business and market practices in a transparent and non-discriminatory manner, avoiding any conflict of interest with the aim of working through a wide range of specialised funds or similar structures.

C. Eligibility criteria

GIF shall be complementary to the own-resource based activities of the EIB Group including the EIF by adopting an investment policy involving a higher risk profile, both as regards intermediary funds and their investment policies.

GIF1

GIF1 shall invest in intermediary venture capital funds and other investment vehicles investing in SMEs up to 10 years old, typically starting from pre-A (seed) and A (early stage) rounds and providing follow-on investment where appropriate. The usual maximum aggregate investment in an intermediary venture capital fund shall be 25 % of the total capital held by the relevant fund, or up to 50 % for new funds likely to have a particularly strong catalytic role in the development of venture capital markets for a specific technology or in a specific region as well as business angels' investment vehicles. The maximum aggregate investment in an intermediary venture capital fund shall be 50 % in those cases where the fund's investment focus is on SMEs active in eco-innovation. At least 50 % of the capital invested in any fund shall be provided by investors operating in circumstances corresponding to normal market conditions (under the 'market economy investor principle'), irrespective of the legal nature and ownership structure of the investors providing that part of the capital. No commitment in a single fund shall exceed EUR 30 million. GIF1 may co-invest with EIF own resources or resources under the EIB mandate or other resources managed by the EIF.

GIF2

GIF2 shall invest in intermediary risk capital funds investing in SMEs, typically in B and C (expansion) rounds. The usual maximum aggregate investment in an intermediary risk capital fund shall be 15 % of the total capital held by the relevant fund, or up to 25 % for:

- new funds likely to have a particularly strong catalytic role in the development of risk capital markets for a specific technology or in a specific region,
- funds the main investment focus of which is on SMEs active in eco-innovation,
- funds set up by first time management teams.

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In the case of co-investment of GIF2 resources with EIF own resources or resources under the EIB mandate or other resources managed by the EIF, the maximum GIF2 contribution shall be 15 %. At least 50 % of the capital invested in any fund shall be provided by investors operating in circumstances corresponding to normal market conditions (under the market economy investor principle), irrespective of the legal nature and ownership structure of the investors providing that part of the capital. No commitment in a single fund shall exceed EUR 30 million.

D. Investment *pari passu*

The investment made under the GIF in an intermediary fund shall rank *pari passu* with the private investors.

E. Cornerstone role

For new funds likely to have a particularly strong catalytic role in the development of venture capital markets for a specific technology or in a specific region, EIF may play the role of a cornerstone investor.

F. Transparency of conditions

EIF shall ensure that terms and conditions of financing under GIF1 and GIF2 are transparent and comprehensible.

G. Life of the GIF

The GIF shall be a long-term facility which will usually take five- to 12-year positions in intermediary funds. In any case, life of investments under the GIF shall not exceed 19 years from the time of signature of the delegation agreement between the Commission and the EIF. Suitable exit strategies shall need to be defined in the agreements between the EIF and the intermediaries.

H. Realisation of investments

As most of the investments to be made under the GIF shall be in unquoted, illiquid entities, the realisation of those investments shall be based on the distribution of the proceeds received by the intermediary from the sale of their investments in SMEs.

I. Reinvestment of proceeds from realised investments

Proceeds, including dividends and reimbursements received by the EIF before 31 December 2013, shall be added to the resources of the GIF and used for the purpose of the GIF.

3. IMPLEMENTATION OF THE SMEG FACILITY**A. Introduction**

Fiduciary, management and monitoring aspects shall be agreed between the Commission and the EIF and shall be in line with normal commercial practices. The Commission shall apply specific guidelines on treasury management.

B. Intermediaries

Intermediaries shall be chosen from among the guarantee schemes already operating or which may be established in the eligible countries, including mutual guarantee organisations, and any other appropriate financial institution. Selection procedures shall be transparent and non-discriminatory, avoiding any conflict of interest.

Intermediaries shall be selected in conformity with best market practice with regard to the effect on:

— the volume of financing (debt, equity or quasi equity) made available to SMEs, and/or

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- SMEs' access to finance, and/or
- risk-taking in SME financing by the intermediary concerned.

C. Eligibility

The financial criteria governing the eligibility under the SMEG Facility shall be determined for each intermediary on the basis of their activities, with the aim of reaching as many SMEs as possible. These rules shall reflect market conditions and practices in the relevant territory.

Financing for the acquisition of tangible and intangible assets, including innovation activities, technological development and the acquisition of licenses shall be eligible.

Criteria relating to the fourth SMEG window, (d) securitisation of SME debt financing portfolios, shall include individual and multi-seller transactions as well as multi-country transactions. Eligibility shall be based on best market practices, in particular regarding the credit quality and risk diversification of the securitised portfolio.

D. Terms of the guarantees

The guarantees issued by the EIF on behalf of the Commission under the (a) debt financing, (b) microcredit, and (c) equity or quasi-equity windows of the SMEG Facility shall cover a part of the risk taken by the financial intermediary in a financing portfolio of individual transactions. The fourth window of the SMEG Facility, (d) securitisation, shall involve sharing the risk of certain securitised tranches which are senior to the first loss piece or leaving the risk of a significant part of the first loss piece to the originator and sharing the risk of the remaining part.

The guarantees given by the EIF relating to the (a) debt financing, (b) microcredit, (c) equity or quasi equity windows of the SMEG Facility shall usually rank *pari passu* with the guarantees or, where appropriate, with the financing given by the intermediary.

The EIF may charge to a financial intermediary a fee calculated on amounts committed but not used according to an agreed schedule (commitment fees) as well as guarantee fees. It may also charge fees related to individual securitisation transactions.

E. EIF's capped maximum cumulative losses

The cost of the SMEG Facility to the general budget of the European Union shall be capped so that it does not, under any circumstances, exceed the budgetary allocation made available to the EIF under this SMEG Facility. There shall be no contingent liability on the budget.

The EIF's obligation to pay its share of the intermediary's losses shall continue until the cumulative amount of payments made to cover losses from a specific financing portfolio, reduced where appropriate by the cumulative amount of corresponding loss recoveries, reaches a pre-agreed amount, after which the EIF's guarantee shall be automatically cancelled.

F. Loss recoveries and other revenue payable to the Trust account

Any loss recoveries received from a given intermediary shall be credited to the Trust account and shall be taken into account in the calculation of the EIF's capped maximum cumulative losses towards the intermediary. Any other revenues, such as commitment fees and guarantee fees, shall be credited to the Trust account and, if received before 31 December 2013, shall be added to the resources of the SMEG Facility.

▼B**G. Duration of the SMEG Facility**

Individual SME guarantees may have a maturity of up to 10 years.

4. IMPLEMENTATION OF THE CBS**A. Introduction**

Implementation details for the Seed Capital action and the Partnership Action, including fiduciary, management and monitoring aspects, shall be subject to an agreement between the Commission and the EIF or the relevant international financial institutions.

Intermediaries shall be selected in conformity with best market practices.

Selection procedures for the provision of technical assistance shall be transparent and non-discriminatory, avoiding any conflict of interest.

B. Seed Capital Action

The Seed Capital Action shall be operated on a trust basis. The budgetary allocation shall cover the full cost of the action, including its management fees and any other eligible costs or expenses. The grants provided shall support investment funds which include seed capital in their global investment programme, by covering part of the resulting management costs.

C. Partnership Action

The Partnership Action shall be operated through the EIF or relevant international financial institutions. It shall cover technical assistance, management fees and other eligible costs supporting capacity building.

5. EVALUATION

The external evaluations shall be carried out by independent experts, taking account of the impact of the Growth and Employment Initiative established under Council Decision 98/347/EC of 19 May 1998 on measures of financial assistance for innovative and job-creating small and medium-sized enterprises (SMEs) — the growth and employment initiative⁽¹⁾ and of the multiannual programme for enterprise and entrepreneurship, and in particular for SMEs. The external evaluations shall assess the impact of the Community financial instruments for SMEs and provide a qualitative and quantitative analysis of achieved results, in particular, by assessing the leverage effect and cost-benefit of each instrument. The evaluation reports shall present statistical data for the Union as a whole and for the individual Member States and the other participating countries including:

- for the GIF, the number of SMEs reached and the number of jobs created,
- the rate of return to investors,
- for the SMEG Facility, the number and value of loans provided by the financial intermediaries to SMEs, the number of SMEs reached and the number and value of loans defaulted,
- for the Seed Capital Action, the number of organisations supported and the volume of seed capital investments,
- for the Partnership Action, the number of intermediaries supported and SMEs reached,
- any specific outputs relating to eco-innovation.

Appropriate visibility shall be given to the results and lessons learned from the reports of the external evaluators and to the sharing of best practices among stakeholders.

⁽¹⁾ OJ L 155, 29.5.1998, p. 43.

*ANNEX III***Details of the services in support of business and innovation referred to in Article 21**

- (a) Information, feedback, business cooperation and internationalisation services
 - disseminating information relating to the functioning and opportunities of the internal market for goods and services, including signposting to tender opportunities,
 - promoting pro-actively Community initiatives, policies and programmes that are relevant for SMEs and providing information to SMEs on the application procedures for such programmes,
 - operating tools to measure the impact of existing legislation on SMEs,
 - contributing to the carrying-out of impact assessment studies of the Commission,
 - operating other appropriate means to engage SMEs in the European policy-making process,
 - assisting SMEs to develop cross-border activities and international networks,
 - supporting SMEs to find relevant partners from the private or public sectors through appropriate tools.
- (b) Services for innovation and for the transfer of both technology and knowledge
 - disseminating information and raising awareness regarding innovation-related policies, legislation, and support programmes,
 - engaging in the dissemination and exploitation of research results,
 - providing brokerage services for technology and knowledge transfer, and for partnership building between all kinds of innovation actors,
 - stimulating the capacity of firms, especially SMEs to innovate,
 - facilitating linkage to other innovation services including intellectual property-related services.
- (c) Services encouraging the participation of SMEs in the Seventh Framework RTD Programme
 - raising awareness among SMEs regarding the Seventh Framework RTD Programme,
 - helping SMEs to identify their research and technological development needs and to find relevant partners,
 - assisting SMEs in the preparation and coordination of project proposals for participation in the Seventh Framework RTD Programme.

▼ M1*ANNEX IIIa*

Main terms, conditions and procedures of the risk-sharing instrument for project bonds referred to in Article 31(2c)

The EIB shall be a risk-sharing partner and shall manage the Union contribution to the risk-sharing instrument for project bonds on behalf of the Union. More detailed terms and conditions for implementing that instrument, including its monitoring and control, shall be laid down in a cooperation agreement between the Commission and the EIB, taking into account the provisions laid down in this Annex.

(a) The EIB facility

1. The risk-sharing instrument for project bonds will be designed for each eligible project as a subordinated facility, in the form of a debt instrument or a contingent (guarantee) facility or both, in order to facilitate the issue of a project bond.
2. Should the EIB be or become a creditor to a project, the EIB's rights under the risk-sharing instrument for project bonds shall rank behind the debt service of the senior debt and ahead of equity and any financing related to equity.
3. The facility shall not exceed 20 % of the total amount of the senior debt issued.

(b) Budget

ICT:

2013: Up to EUR 20 million.

The request for transfer of the sums above shall be issued by 31 December 2012 and shall be supported by a forecast of the need for the scheduled Union contribution.

If necessary, that forecast may serve as the basis for a demand-based reduction of the 2013 amount which shall be decided in accordance with the procedure referred to in Article 46(2).

(c) Fiduciary account

1. The EIB shall set up a fiduciary account to hold the Union contribution and revenues resulting from the Union contribution.
2. Given the limited duration of the pilot phase, the interest earned on the fiduciary accounts and other revenues resulting from the Union contribution, such as guarantee premiums, interest and risk margins on sums disbursed by the EIB, shall be added to the resources of the fiduciary account. However, the Commission may decide, in accordance with the procedure referred to in Article 46(2), that they are to be returned to the CIP ICT budget line.

(d) Use of the Union contribution

The Union contribution shall be used by the EIB:

1. towards risk provisioning on a first-loss basis for the subordinated facilities of the eligible project portfolio, in accordance with the relevant rules of the EIB and a risk assessment performed by the EIB under its applicable policies;
2. to cover any non-project-related eligible costs associated with the establishment and administration of the risk-sharing instrument for project bonds, including its evaluation.

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(e) Risk and revenue sharing

The risk-sharing pattern resulting from point (d) shall be reflected in an appropriate sharing between the Union and the EIB of the risk remuneration charged by the EIB to its counterpart in respect of each facility within the project portfolio.

(f) Pricing

The pricing of the project bond facilities is based upon the risk remuneration in accordance with relevant standard rules and criteria of the EIB.

(g) Application procedure

Applications for risk coverage under the risk-sharing instrument for project bonds shall be addressed to the EIB in accordance with the EIB's standard application procedure.

(h) Approval procedure

The EIB shall carry out risk, financial, technical and legal due diligence and shall decide upon the use of the risk-sharing instrument for project bonds and select the appropriate type of subordinated facility in accordance with its standard rules and criteria, notably EIB Credit Risk Policy Guidelines, and the EIB's selection criteria in the social, environmental and climate field.

(i) Duration

1. The Union contribution to the risk-sharing instrument for project bonds shall be committed no later than 31 December 2013. The actual approval of project bond facilities by the EIB's Board of Directors shall be finalised by 31 December 2014.
2. In the event of termination of the risk-sharing instrument for project bonds during the current multiannual financial framework, any balances on the fiduciary account, other than funds committed and funds needed to cover other eligible costs and expenses, shall be returned to the CIP ICT budget line.
3. Funds allocated to the risk-sharing instrument for project bonds shall be reimbursed to the relevant fiduciary account as facilities expire or are repaid, provided risk coverage remains sufficient.

(j) Reporting

Annual reporting methods on the implementation of the risk-sharing instrument for project bonds shall be agreed between the Commission and the EIB.

In addition, the Commission shall, with the support of the EIB, report on implementation every six months to the European Parliament and the Council, starting six months after the signature of the cooperation agreement referred to in Article 31(2c).

(k) Monitoring, control and evaluation

The Commission shall monitor the implementation of the instrument, including through on-the-spot controls as appropriate, and shall perform verification and controls in line with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽¹⁾.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

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The EIB shall manage subordinated facilities in accordance with EIB's own rules and procedures, including appropriate audit, control and monitoring measures. Furthermore, the EIB's Board of Directors, on which the Commission and Member States are represented, shall approve each subordinated facility and monitor that the EIB is managed in accordance with its Statute and with the general directives laid down by its Board of Governors.

The Commission and the EIB shall submit an interim report on the functioning of the pilot risk-sharing instrument for project bonds to the European Parliament and the Council in the second half of 2013 with a view to optimising the design of that instrument.

A full-scale independent evaluation shall be undertaken in 2015 after approval of the final project bond operations. It shall cover, inter alia, the value added, additionality compared to other Union or Member State instruments and other existing forms of long-term debt financing, the achieved multiplier effect, an assessment of the risks involved as well as the creation or correction of distortive effects, if any. The evaluation shall also cover the impact on projects' financial viability, volume, terms and costs of bond issuance, the effect on the wider bond markets as well as controlling creditor and procurement aspects. It shall also provide, if possible, a cost comparison with alternative means of project finance including bank loans. During the pilot phase, each selected project shall be assessed.