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EUROPEAN COMMISSION

# **The European Research Area Partnership**

## ***2008 Initiatives***

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# FOREWORD



The European Commission's 2007 Green Paper on the European Research Area (ERA) established a new phase of development for EU research policy. The Green Paper public consultation confronted ideas for policy action to reality and shed light on the areas in

which Europeans expect action at the EU level. A year later, in May 2008, the Council launched the **Ljubljana Process** for the governance of ERA based on a partnership between the European Commission and the Member States. By September, the Commission had tabled documents for five new initiatives to begin implementing ERA policy on concrete topics – researchers, knowledge transfer, joint programming, research infrastructures and international cooperation – in addition to continuous work to strengthen research institutions within the knowledge triangle. By December 2008, the Council had given its first formal response to the Commission proposals, adopting, in addition, a shared vision of ERA in 2020.

This is a compilation of official documents relating to ERA, adopted by the Council or the Commission in the course of 2008.

The shared **ERA vision** for 2020 strikes a balance between ambition and pragmatism. It includes a clear mission statement for establishing the **Fifth Freedom** - the free movement of knowledge. It also includes explicit aspirations regarding attractive working conditions for researchers, good governance, high levels of Europe-wide competition and excellence, but also better cooperation and coordination, to more effectively respond to societal challenges such as climate change, sustainable development and increased competitiveness. It is fully consistent with the European economic recovery package, which places research, development and innovation at the heart of long-term prosperity.

The **European Partnership for researchers** constitutes a common framework and timeframe for improving both researcher career prospects and mobility. Raising Europe's research performance and bringing about the fifth freedom depends in a critical way on increasing the quality, number and mobility of researchers. The aim is also

to enhance Europe's attractiveness for researchers in a context of rising competition for the best talents in an increasingly multipolar international environment.

The **Joint Programming** Communication highlights the need to join forces and pool resources to address major societal challenges. This would allow reaching a critical mass and sufficient thematic scope, where this is not possible in the context of a single country, eventually achieving a better use of scarce financial and human resources.

The objective of the proposed regulation for a legal framework for **European research infrastructures** is to facilitate the setting-up of large-scale research infrastructures among Member States. The framework has been developed in response to requests from the Member States and the scientific community, as the available national and international legal forms are not adequate for rapidly establishing the increasingly complex and expensive infrastructures we need in Europe.

The **Strategic European Framework for International S&T cooperation** proposes a new partnership to strengthen the international dimension of the ERA, to improve the framework conditions for international S&T cooperation and to promote European technologies in the world. International cooperation in S&T embodies the 'Fifth Freedom': the free circulation of knowledge at a global level. It also promotes political cooperation, dialogue and trust.

The initiative on the management of intellectual property in **knowledge transfer** activities has two components - a Commission Recommendation concerning policy guidelines for Member States on the development or updating of national guidelines and frameworks, and a Code of Practice for public research organisations and universities on improving the way they manage intellectual property and promote knowledge transfer.

I look forward to continuing progress through 2009 and beyond, both in terms of the implementation of the concrete ERA initiatives as well as their steering at political level.

  
Janez Potočnik

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## THE LJUBLJANA PROCESS

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LAUNCH OF THE "LJUBLJANA PROCESS"  
- TOWARDS FULL REALISATION OF ERA

Council Conclusions

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DEFINITION OF A "2020 VISION FOR  
THE EUROPEAN RESEARCH AREA"

Council Conclusions

# LAUNCH OF THE “LJUBLJANA PROCESS” - TOWARDS FULL REALISATION OF ERA

## Council Conclusions

10231/08

30 May 2008

THE COUNCIL OF THE EUROPEAN UNION

1. RECALLS:

- the Presidency Conclusions of the European Council held on 23 and 24 March 2000 in Lisbon<sup>1</sup>, where the Lisbon Strategy was launched with the aim of making the European Union the most competitive knowledge-based economy in the world and achieving full employment by 2010;
  - the Presidency Conclusions of the European Council held on 15 and 16 March 2002 in Barcelona<sup>2</sup>, where agreement was reached that the overall spending on R&D and innovation in the Union should be increased with the aim of approaching 3% of GDP by 2010, while two thirds of this new investment should come from the private sector;
  - the Presidency Conclusions of the European Council of 22 and 23 March 2005<sup>3</sup>, where the Lisbon strategy was relaunched;
  - the “Green Paper on the European Research Area: New Perspectives”<sup>4</sup> adopted by the Commission on 4 April 2007, which proposed for debate a vision of the European Research Area based on six dimensions, namely: realising a single labour market for researchers; developing world-class research infrastructures; strengthening research institutions; sharing knowledge; optimising research programmes and priorities; and opening to the world through international cooperation in S&T;
- the discussions among Ministers concerning new perspectives for the European Research Area at the informal meeting of Ministers for Competitiveness at Würzburg, Germany, in April 2007;
  - its Conclusions on the Future of Science and Technology in Europe<sup>5</sup> of 23 November 2007, which called for an increase in public and private research funding and human resources;
  - the results of the public consultation on the Commission's Green Paper entitled “The European Research Area: New Perspectives” as presented in the Commission Staff Working Document of 2 April 2008<sup>6</sup>;
  - the Presidency Conclusions of the European Council of 14 December 2007<sup>7</sup> which called for work to be taken forward speedily in order to launch the next cycle of Lisbon process at the European Council meeting in March 2008;
  - the discussions during the Informal Meeting of Ministers for Competitiveness of 15 April 2008 under the Slovenian Presidency in Ljubljana, paving the way for a new course for the European Research Area;

2. RECOGNIZES the fundamental role of ERA as a primary pillar for the Lisbon objectives and as an engine for driving the competitiveness of Europe; and takes into account that Europe needs to develop a common vision and effective governance of the European Research Area (ERA), in order to improve the coherence and synergy among several good initiatives already launched at national and EU levels, so

1 Doc. SN 100/00.  
2 Doc. SN 100/1/02 REV 1.  
3 Doc. 7619/1/05 REV 1.  
4 Doc. 8322/07 + ADD 1.

5 Doc. 14693/07.  
6 Doc. 8159/08.  
7 Doc. 16616/1/07 REV 1.

- that a globally competitive, knowledge-based and innovative Europe can be created;
3. ACKNOWLEDGES that Europe now needs to develop a common vision and effective governance of the European Research Area (ERA). Many good initiatives have been launched at national and EU levels but in certain areas, greater coherence and synergy can contribute to a globally competitive, knowledge-based and innovative Europe;
  4. WELCOMES the willingness expressed by the Member States, the countries associated to the Framework Programme for Research and Technological Development (hereinafter referred as FP), and the Commission to share responsibility for establishing the ERA of the future with a renewed commitment, with due respect for the roles and prerogatives of EU institutions and the principle of subsidiarity;
  5. AGREES to launch the “Ljubljana Process” of enhanced governance based on a long-term vision on ERA developed in partnership by Member States and the Commission with broad support from stakeholders and citizens;
  6. CONSIDERS that this long-term vision for ERA should be based on the broad Lisbon goals to make Europe a leading knowledge economy and society based on the “knowledge triangle” of research, innovation and education, as major drivers of competitiveness and quality of life. The vision should i.a. include the following features:
    - a) free movement of knowledge, the ‘fifth freedom’, with excellent training and attractive career prospects for researchers moving and interacting freely across Europe;
    - b) modern universities and research organisations developing globally competitive poles and networks to deliver excellent science and technology throughout Europe with an optimal mix of specialisation and variety;
    - c) favourable conditions for all actors in research and the private sector, including SMEs, to invest in research and exploiting its results, having access to world-class research infrastructures (including those of pan-European interest identified in the ESFRI roadmap), participating in open and well-coordinated research programmes, sharing and using knowledge across sectors and borders, and developing strong links and coordinated cooperation with partners outside Europe;
    - d) benefits for citizens from the contribution of large-scale R&D efforts to solve major societal challenges;
  7. STRESSES the need to endorse a first vision before the end of 2008, and to communicate it widely, in order to quickly focus policies and actions to make it happen, and, subsequently, to discuss, update and deepen it regularly as part of the ERA governance process set out below;
  8. INVITES Member States and the Commission to set up improved political governance to steer and stimulate the development of ERA and to build links with other policies, such as education, innovation and cohesion policies. These efforts need to be intensified as soon as possible and to be gradually consolidated. WELCOMES the willingness of forthcoming EU Presidency trios to work closely with each other and with the Commission in order to ensure coherent and sustained progress in the near future;
  9. CONSIDERS that improved governance of ERA should include the following principles:
    - a) it is part of the Lisbon Partnership for Growth and Jobs, and is closely linked to education, innovation and other relevant policies;
    - b) it involves all Member States and associated countries including regional authorities, as well as stakeholders such as universities and research organisations, civil society and business

- which should be actively engaged in ERA governance;
- c) it is aimed at realising the shared vision of ERA, for which purpose monitoring indicators and evaluation criteria should be defined, adopted and supported by an effective information system, which should be developed jointly by the Commission and the Member States, based on the Open Method of Coordination, and should enable overall progress towards the shared vision of ERA and the specific ERA initiatives to be monitored;
  - d) it is based on a long-term partnership between the Member States, the countries associated to the FP, and the Commission, involving relevant Community, relevant national and joint ERA initiatives. From the early phases of planning of initiatives to their implementation, monitoring and evaluation, the partnership should be guided at the political level;
  - e) it avoids unnecessary complexity and improves coherence and effectiveness of ERA development;
10. INVITES the Member States and the Commission to make full use of the Open Method of Coordination (OMC), as called for by the March 2008 European Council to improve multilateral surveillance, building on the ERA dimension of National Reform Programmes, mutual learning and peer review;
11. AGREES that it will develop the ERA governance including the following features :
- a) relying on the information system and on the enhanced OMC for in-depth and evidence-based discussions, Ministers would address, if appropriate, specific ERA developments and longer-term orientations at their meetings. This would thus help to orient and build consensus for future Council decisions;
  - b) CREST would be an important platform and should enhance its advisory role in the OMC, in order to support the Commission and the Council in the preparation, monitoring and evaluation of ERA initiatives;
  - c) countries associated to the FP should also be associated to ERA governance discussions;
12. CALLS ON Member States and the Commission to establish effective governance arrangements for each of the five ERA initiatives already planned in 2008 (joint programming in research; European researchers' partnership; legal framework for European Research infrastructures; intellectual property management; and a wide opening of the ERA to the world) and others to follow, based on a partnership between the Member States and the Commission built on the principles set out in point (8) above and involving, as appropriate, relevant specialised fora such as European Technology Platforms, ESFRI, ESF, EUROHORCS, and other structures.

# DEFINITION OF A “2020 VISION FOR THE EUROPEAN RESEARCH AREA”

## Council Conclusions

16767/08

2 December 2008

THE COUNCIL OF THE EUROPEAN UNION

1. RECALLS:

- its Resolution of 15 June 2000 establishing a European Research Area (ERA)<sup>1</sup> following the Presidency Conclusions of the European Council held on 23 and 24 March 2000<sup>2</sup> in Lisbon, where the European Union adopted the Lisbon Strategy with the goal of becoming the most competitive and dynamic knowledge-based economy in the world;
- the Conclusions of the European Council of 22 and 23 March 2005<sup>3</sup>, at which the Lisbon Strategy was renewed placing the main emphasis on knowledge, innovation and the optimisation of human capital;
- the “Green Paper on the European Research Area: New Perspectives”<sup>4</sup> adopted by the Commission on 4 April 2007, which proposed a number of priority objectives with a view to deepening and widening the ERA so that it fully contributes to the renewed Lisbon Strategy;
- the Conclusions of the European Council of 13 and 14 March 2008, which called for the creation of a “fifth freedom” to remove barriers to the free movement of knowledge;
- its Conclusions of 23 November 2007 on the Future of Science and Technology in Europe, which called for an increase in public and private research funding, as well as an increase in human resources for research;

- its Conclusions of 30 May 2008 on the launch of the “Ljubljana Process - Towards full realisation of ERA” aiming to establish an enhanced governance for the ERA, and which stressed in particular the need to develop a long-term vision for the ERA based on the objectives of the Lisbon Strategy;
- the Commission communication of 26 November 2008 entitled “A European Economic Recovery Plan for growth and jobs”, which proposes in particular measures to support the knowledge-based economy, including measures for research-intensive SMEs which are at particular risk in the current financial crisis.

2. ENCOURAGES the Community and the Member States to further coordinate their research and technological development activities so as to ensure that national policies and Community policy are mutually consistent;
3. REAFFIRMS the importance of strengthening scientific and technological bases across Europe and developing its competitiveness in pursuit of sustainable development including protection of the environment, and satisfying the needs of its citizens, by achieving a European Research Area (ERA) in which researchers, scientific knowledge and technology circulate freely;
4. STRESSES that coordination and cooperation activities in the ERA are organised on a voluntary basis and that their implementation takes place in variable geometry in the spirit of close cooperation between the Community and the Member States with appropriate involvement of the countries associated with the Framework Programme for Research and

1 OJ C 205, 17.7.2000, p. 1.

2 SN 100/00.

3 7619/1/05 REV 1.

4 8322/07 + ADD 1.

Technological Development and with due respect for the principle of subsidiarity;

5. RECALLS that in addition to the Framework Programme for Research and Technological Development there is a variety of other important initiatives at European level, such as EUREKA and COST, that continue to be essential to the creation of a true spirit of cooperation. Moreover, there are a variety of top-level scientific institutions in Europe, including intergovernmental scientific organisations and laboratories<sup>5</sup>, which contribute to the worldwide recognition of European research;
6. RECALLS that the Community patent would constitute an important part of the operational IPR framework which the EU is gradually putting in place, and that the European Institute of Innovation and Technology (EIT) together with its forthcoming Knowledge and Innovation Communities (KICs) should be instrumental in bringing closer together research, innovation and education across Europe;
7. REAFFIRMS that the ERA constitutes a core element of the Lisbon Strategy for Growth and Jobs and STRESSES the necessity to ensure that the ERA is fully operational and fully contributes to the “knowledge triangle” of research, innovation and education driving the international competitiveness and sustainable development of Europe and underpinning its ambitions to become a leading knowledge-based economy and society;
8. in that context, CONSIDERS that the increasing world-wide competition in research and the emergence of global societal challenges call for accelerating the full realisation of the ERA, including its external dimension;
9. ENDORSES the attached “2020 Vision for the ERA”, which was developed in partnership by the Member States and the Commission in the context of the first phase of the “Ljubljana Process”;
10. INVITES Member States and the Commission to communicate this common vision widely to stakeholders and society at large, to quickly focus policies and actions to make it a reality, and, subsequently, to discuss, update and deepen it as part of the “Ljubljana Process”;
11. INVITES Member States and the Commission to take this vision into consideration in their reflections on the Lisbon Strategy post-2010;
12. INVITES future Presidencies to take this vision and its potential evolution into consideration in the development of their proposals for the future governance of the ERA and STRESSES the need to use the full potential of existing coordination structures such as CREST in dealing with ERA initiatives;
13. INVITES the Commission to propose by the end of 2009 a limited number of monitoring indicators and evaluation criteria to measure the progress made in achieving the “2020 Vision for the ERA”.

<sup>5</sup> Such as the European Organisation for Nuclear Research (CERN), European Space Agency (ESA), European Organisation for Astronomical Research in the Southern Hemisphere (ESO), European Molecular Biology Laboratory (EMBL) and others.

## ANNEX

### “2020 VISION FOR THE EUROPEAN RESEARCH AREA”

**By 2020, all players will fully benefit from the “fifth freedom” across the ERA: free circulation of researchers, knowledge and technology. The ERA provides attractive conditions and effective and efficient governance for carrying out research and investing in R&D intensive sectors in Europe. It creates significant added value by fostering healthy Europe-wide scientific competition whilst ensuring the appropriate level of cooperation and coordination. It is responsive to the needs and ambitions of citizens and contributes effectively to the sustainable development and competitiveness of Europe.**

**THE EUROPEAN RESEARCH AREA (ERA)  
IS FIRMLY ROOTED IN SOCIETY AND RESPONSIVE  
TO ITS NEED AND AMBITIONS IN PURSUIT  
OF SUSTAINABLE DEVELOPMENT**

The European publicly-supported research and technology base plays a key role in responding to the needs of citizens and business, through world-class cutting-edge research.

Major challenges are addressed by high levels of public and private investment in research and by strategic partnerships involving the Community, Member States and Associated States in variable geometry, based on common foresight.

Research also supports the development of national and EU policies and provides decision-makers with accessible, diverse and up-to-date scientific evidence.

The ERA builds on mutual trust and continuous dialogue between society and the scientific and technological community. The freedom of research is fully recognised. Research carried out in the ERA respects the ethical principles of the EU and supports its democratic values as well as the cultures and identities of Member States.

The ERA enables Europe to speak with one voice in international fora and with its main international partners. Public authorities at all levels jointly promote consistency

between their R&D cooperation activities and develop joint initiatives that give Europe leadership in addressing global challenges and reaching sustainable development goals.

**THE ERA DEFINES THE EUROPEAN WAY  
TO EXCELLENCE IN RESEARCH AND IS A  
MAJOR DRIVER OF EUROPEAN COMPETITIVENESS  
IN THE GLOBALISED WORLD**

### THE MODERNISATION OF RESEARCH, EDUCATION AND INNOVATION SYSTEMS GO HAND IN HAND

Strong interactions within the “knowledge triangle” (education, research and innovation) are promoted at all levels, from individual researchers, funding organisations, universities and research institutions to SMEs and multinational companies, and are supported by appropriate European mechanisms.

Research, education and innovation policies and programmes are jointly designed among public authorities at all levels with appropriate involvement of relevant stakeholders, whenever this is necessary to optimise their effectiveness, efficiency and value to society and the economy.

The supply of human resources in science and technology is in line with the demand by public and private research players, and the ERA contributes to the development of appropriate structures for the training and balanced circulation of scientific talent as well as for a favourable work-life balance.

### THE ERA UNDERPINS THE DEVELOPMENT OF EUROPEAN COMPETITIVENESS ...

Business is stimulated to innovate and invest in Europe, in particular in R&D. Firms operating in the ERA benefit from a single market for innovative goods and services and excellent export potential in growing markets worldwide. They fully exploit the possibilities of open innovation through a single market for knowledge including an operational IPR framework.

Across the ERA, firms, including young innovative firms and SMEs, can easily engage in research partnerships with a European public research base and benefit from attractive framework conditions, based on proactive standard-setting and coordinated public procurement, improving their access to European high-growth markets for innovative ideas, goods and services.

### **... AND PROVIDES COORDINATED SUPPORT TO RESEARCHERS AND RESEARCH INSTITUTIONS ENGAGED IN EXCELLENT RESEARCH**

Public authorities across the ERA contribute to world-class S&T excellence in Europe relying on cooperation and coordination where there is clear added value. To that end, national and regional research systems, policy objectives, dissemination and support mechanisms and programmes, which are core elements of the ERA, are developed in a simple and coherent manner.

A significant share of public funding of research is provided through ERA-wide open competition based on the quality and relevance of the research, thus gradually promoting the necessary specialisation and concentration of resources into units of excellence of optimum size and improving the effectiveness of research funding.

Public funding leaves a large margin for bottom-up creativity and a healthy diversity of approaches in the ways challenges are addressed. This includes fully open, non-oriented research funded via the European Research Council and national funding organisations, which are open to direct applications within and across national borders in the EU from individual researchers or teams.

### **AT THE SAME TIME, S&T CAPACITY BUILDING IS PROMOTED ACROSS THE EU**

Utilising their research potential fully, all Member States and all European regions are building on their strengths while maintaining or gaining access to complementary specialised knowledge and capacities in the rest of Europe. This is achieved with significant support from the cohesion policy and appropriate transnational coordination to ensure optimum deployment across Europe of scientific and technological capacities.

As part of the diversified and rich landscape of top-level scientific institutions, major research infrastructures in the ERA promote excellence in science on a globally competitive basis and are jointly funded at EU level where appropriate, with rapid development of new distributed infrastructures. They offer equitable access to world-class modern research facilities and technology demonstrators.

**THE ERA PROVIDES A SEAMLESS AREA OF FREEDOM AND OPPORTUNITIES FOR DIALOGUE, EXCHANGE AND INTERACTION OPEN TO THE WORLD**

The ERA provides for open circulation of knowledge across national borders. Public authorities at all levels jointly pursue an outward-looking approach to collaboration with third countries, based on mutual benefit and appropriate intellectual property management and protection. The ERA is at the core of all major global networks of scientific and technological knowledge producers, distributors and users.

Common frameworks, guidance and, where appropriate, legislation facilitate the establishment and functioning of the transnational markets and networks in which the ERA actors can interact with each other effectively and efficiently.

Research institutions across the ERA have the strategic, financial and managerial autonomy to engage in durable partnerships and alliances across Europe and beyond, and to interact effectively with business and other players. These interactions are facilitated by an open market for contract research and appropriate guidance for intellectual property management.

Players are able to access, manage and share knowledge (including via open access) across the ERA using interoperable high-performance information systems.

European research institutions provide attractive working conditions for researchers from all parts of the world, both men and women, in the framework of a single labour market which enables mobility between countries and sectors with minimal financial or administrative obstacles.





## RESEARCHERS

BETTER CAREERS AND MORE MOBILITY:  
A EUROPEAN PARTNERSHIP FOR RESEARCHERS

Communication from the Commission  
to the Council and the European Parliament

BETTER CAREERS AND MORE MOBILITY:  
A EUROPEAN PARTNERSHIP FOR RESEARCHERS

Council Conclusions

# BETTER CAREERS AND MORE MOBILITY: A EUROPEAN PARTNERSHIP FOR RESEARCHERS

## Communication from the Commission to the Council and the European Parliament

COM(2008) 317

23 May 2008

### 1. INTRODUCTION

The 2008 Spring European Council confirmed investing in people and modernising labour markets, and investing in knowledge and innovation<sup>1</sup> as priority areas for the renewed Lisbon Strategy for Growth and Jobs.

Significant efforts are already planned or underway to transform the EU economy towards more knowledge-intensive activities, including measures to strengthen the single market<sup>2</sup>, increase job mobility<sup>3</sup>, reinforce education and training<sup>4</sup> and incentivise more private investment in research and innovation<sup>5</sup>.

The 2007 Green Paper “**The European Research Area: New Perspectives**”<sup>6</sup> launched a wide public debate on how to achieve a more open, competitive and attractive ERA. A number of key areas have subsequently been identified where effective actions, undertaken in partnership between the Member States’ and the Community around common objectives would deliver significant gains for Europe’s research system and help to create a “fifth freedom” in Europe – the freedom of knowledge.

As one of five initiatives<sup>7</sup> planned in 2008 to follow up the ERA Green Paper, **this Communication proposes to develop a partnership with Member States to ensure**

**the availability of the necessary researchers.** As the core producers of new knowledge and the main agents in its transfer and exploitation, researchers are indispensable for a competitive, knowledge-based EU economy. In order to retain and attract the best research talents a balanced approach is required to ensure that researchers across the EU benefit from the right training, attractive careers and the removal of barriers to their mobility.

It is foreseen that the overall governance of the ERA initiatives will be overseen by the Competitiveness Council.

### 2. PROGRESS AND PROSPECTS

The term “researcher” covers many different roles and activities. From university academics and scientists engaged in long-term basic research at large research infrastructures to more mission-orientated researchers at government labs, from corporate employees carrying out market-orientated development work to the staff of high-tech SMEs pursuing technology transfer or product and process innovation.

The need for adequate human resources for R&D has been identified as a key challenge since the launch of the Lisbon Strategy in 2000<sup>8</sup>. The Commission proposed **measures to increase the mobility of researchers across the ERA in 2001**<sup>9</sup> and for **their career development in 2003**<sup>10</sup>.

1 Presidency Conclusions European Council 13-14 March 2008.

2 “A Single Market for the 21st Century Europe” COM(2007) 724.

3 The European Job Mobility Action Plan 2007-2010, COM(2007)773, 6.12.2007.

4 Including EU support to increase academic mobility and the planned EU initiative on new skills for new jobs.

5 “Putting knowledge into practice: A broad-based innovation strategy for the EU” COM(2006) 502, 13.9.2006 and “A lead market initiative for Europe” COM(2007) 860, 21.12.2007.

6 COM(2007) 161, 4.4.2007.

7 Others related to: IP management by public research organisations; Joint programming; pan-European research infrastructures; international S&T cooperation.

8 Presidency Conclusions Lisbon European Council 23-24 March 2000.

9 “A mobility strategy for the European Research Area” COM (2001) 331, 20.06.2001.

10 “Researchers in the European Research Area: one profession, multiple careers” COM (2003) 436, 18.07.2003.

In 2005 the Commission adopted the **European Charter for Researchers and a Code of Conduct for the Recruitment of Researchers** setting out the roles and responsibilities of researchers and their employers and funders, and ways to make recruitment fairer and more transparent. The “**scientific visa**” package adopted in 2005<sup>11</sup> aimed to allow fast-track admission and residence of third country researchers. Researchers’ mobility and careers were supported by funding from the **Sixth Research Framework Programme**.

Most Member States are undertaking researchers’ related actions, in particular reforms to their university and higher education sectors<sup>12</sup>. Increasing the autonomy and improving the governance of institutions is directly relevant to improving the situation for researchers.

**These initiatives have yielded results.** There is much improved information for mobile researchers through a network of local centres and on-line<sup>13</sup>. Funding for researchers has increased in the **Seventh Research Framework Programme**, including through the new **European Research Council**.

**But progress remains slow.** Take-up of the voluntary Charter and Code has been limited so far and several Member States have still not implemented the Directive of the “scientific visa” package. Existing policies tend to address issues in relative isolation, or take a narrow national perspective.

While situations vary considerably across institutions and countries, in many Member States outdated national legislation and practices still hinder or prevent competition-based recruitment in the public sector. The prevalence of short-term contracts for young researchers and advancement based on seniority rather than performance means it can take many years before talented researchers are able to become independent scientists in their own right. Many researchers are trained in a traditional academic way which does not equip them for the needs of the modern

knowledge economy where connections between industry and public research institutions are increasingly important. There are strong disincentives for researchers wishing to move jobs between institutions, between academia and industry or between countries.

**While EU countries still produce more science and engineering graduates and PhDs than the US and Japan, researchers make up a much lower share of the workforce in the EU**<sup>14</sup>. Many European graduates and doctorate holders either move away from research careers or pursue research in countries where they find better opportunities – mainly in the US.

In 2004, of the nearly 400,000 foreign researchers in the US an estimated 100,000 were born in the EU<sup>15</sup>. This is a significant proportion of the total EU researchers’ population of 1.3 million<sup>16</sup> and these are also likely to be top performers in their fields. For example, in 2007, 75% of the assistant professors in the ten highest ranked US university economics departments had received their Bachelors degrees outside the US<sup>17</sup>. The ability of the US system to draw upon a global talent pool is reflected in the clear lead which the US enjoys over the EU in terms of the best research<sup>18</sup>. The influx of third country researchers to the EU is much lower<sup>19</sup>, while **the global competition for the most talented researchers is increasing with new players now able to offer attractive conditions**.

At the same time, **concerns are growing in several Member States over the ageing of the research labour force and shortages of researchers are already becoming a problem in some regions and industries**<sup>20</sup>. The situation will get worse if young people are not attracted into the profession and if the present under-representation of women in science and engineering is not addressed. Furthermore, over and above those

11 Including the Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting Third-country nationals for the purposes of scientific research (“Scientific visa”) O.J. L 289/15 of 3.11.2005.  
12 “Delivering on the modernisation agenda for universities: education, research and innovation.” COM(2006) 208, 10.5.2006.  
13 ERA-MORE and Researchers’ Mobility Portal to be re-launched in June 2008 as the EURAXESS Researchers in Motion Network, for information on mobility, jobs and rights.

14 0.56% in the EU as against 0.93% and 1.06% in the US and Japan; IISER II, European Commission 2007.  
15 Europe in the global research landscape, European Commission 2007.  
16 Full-time equivalent; IISER II, European Commission 2007.  
17 Oswald and Ralsmark, 2008.  
18 EU share of top 10 % most cited scientific publications is 37.5 % against a US share of 48.9 %. Only 8 of the 76 universities in the world with the highest citation impact are located in the EU; 67 are located in the US; Key Figures, European Commission 2007.  
19 In 2000, 2% of persons employed in S&T occupations in the EU were of non-EU origin, while the share of foreign-born in US S&E jobs was 22%; “Key Figures” European Commission 2007.  
20 In a number of countries over 40% of the highly qualified workforce is aged 45-64, while those aged 25-34 represent only about 25%; Key Figures, European Commission 2007.

researchers required to replace the current workforce, it is estimated<sup>21</sup> that between 600,000 and 700,000 additional researchers would be needed in Europe in order to reach the objective of investing an average of 3% of GDP in research set by the Barcelona European Council<sup>22</sup>.

**Decisive measures are therefore needed for Europe's researchers now more than ever.** What is at stake is whether Europe can remain and develop as a world-class location for R&D in the long term.

### 3. A PARTNERSHIP FOR ACTION

The Lisbon strategy recognises the need to make progress in a comprehensive and coordinated way. **There would be considerable EU added value in a new initiative for researchers which could build upon reforms and actions which are now underway.** At the same time the availability of sufficient human resources is a necessary condition for achieving the broader ambitions of the Lisbon Strategy.

The Commission therefore proposes **to develop a partnership between the Commission and the Member States designed to ensure real ownership of objectives and actions. This is essential to jointly drive forward a number of targeted priority actions in key areas selected for their potential impact** at the Community, national and institutional levels.

Many lessons can be learned from previous and existing initiatives at both the Community and national levels and there are many examples of good practice in the EU. **Raising the level of all national systems and institutions towards that of the best would go a long way to creating a world class European research system.** The impact of individual initiatives would be greatly increased by ensuring that they are planned and implemented in a coherent, consistent and mutually reinforcing way, based on commonly developed objectives and focussed on key areas.

**The partnership should make a commitment to achieving by the end of 2010 rapid, measurable progress to:**

- **systematically open recruitment;**
- **meet the social security and supplementary pensions needs of mobile researchers;**
- **provide attractive employment and working conditions;** and
- **enhance the training, skills and experience of researchers.**

Coordinated action in these areas, **alongside renewed efforts on existing initiatives such as increasing the take-up of the principles of the Charter and Code,** would provide better job opportunities and more rewarding careers for researchers and allow greater movement between institutions, between the public and private sectors and across borders.

At the European level a genuine labour market for researchers would balance the supply and demand for researchers, boost productivity growth through better job matching, increase knowledge transfer and facilitate the development of centres of excellence throughout the EU, create better international connections for collaborative research and the economic exploitation of research results, and help to create more attractive conditions for industrial investment in research.

## 4. ACTIONS IN THE FOUR KEY AREAS

### 4.1 OPEN RECRUITMENT AND PORTABILITY OF GRANTS

A lack of open job opportunities is frequently cited by researchers as a disincentive to starting or remaining in a research career in Europe. In many Member States public

<sup>21</sup> COM (2003) 226 final of 30.04.2003.

<sup>22</sup> Presidency Conclusions of 15-16 March 2002.

research institutions, and in particular universities, often have little autonomy over hiring due to **outdated national legislation and practices which still hinder or prevent competition-based recruitment**. So whereas private sector recruitment in Europe is mostly open and competitive, internal recruitment is still widespread at institutional level in the public sector.

Researchers are a relatively small and highly specialised workforce so **it will not always be possible to find the best qualified individual for a given research position within any single national system, let alone within a single institution**. The widespread adoption of open recruitment in the public sector is therefore likely to improve Europe's research performance as well as providing more opportunities for researchers.

While most private and some public sector research employers already advertise vacancies openly **the majority of vacancies are only advertised internally** or at best at national level. Researchers also need **up to date, readily available practical information on moving between institutions, sectors and countries**.

And despite significant efforts, including through the Bologna Process and the recently adopted European Qualifications Framework, **institutions still lack understanding of the procedures and standards for recognising academic and professional qualifications from other countries or sectors** including non-formal qualifications.

To date, **almost all project funding is tied to an institution within the country of the funding organisation** even if relocation would be beneficial for the results of the project. The portability of grants provided by the European Research Council and the "money follows researcher" scheme piloted by national research funding agencies through EUROHORCs<sup>23</sup> could serve as models for other initiatives.

#### Proposed priority actions:

- Member States to ensure open, transparent, competition-based recruitment of researchers, in particular by giving institutions greater autonomy over hiring and by adopting best practice on the recognition of qualifications from other countries
- Member States and Commission to ensure that all publicly funded researchers' positions are openly advertised online, in particular through EURAXESS
- Member States and Commission to ensure adequate information and assistance services for researchers moving between institutions, sectors and countries including through EURAXESS and the EURES platform<sup>24</sup>
- Member States and Commission to allow portability of individual grants awarded by national funding agencies and relevant Community research programmes where this enables funders to better meet their research needs and researchers to better manage their careers

23 Heads of EU's national research funding and performing organisations.

24 European Employment Services network and website [www.eures.europa.eu](http://www.eures.europa.eu).

#### 4.2. MEETING THE SOCIAL SECURITY AND SUPPLEMENTARY PENSIONS NEEDS OF MOBILE RESEARCHERS

The European dimension of **social security**<sup>25</sup> is subject to coordination regulations across the EU that aims to prevent that application of the different national legislations adversely affects mobile workers.<sup>26</sup> Council Regulation (EC) 1408/71 provides as a general rule that migrant workers are subject to legislation of the country in which they work. Over the years Community legislation on social security coordination has particularly facilitated longer-term mobility of workers. But as highlighted in the recent EU Job Mobility Action Plan, **the rules adopted several decades ago may not cover as efficiently newer forms of mobility of workers who frequently work on short-term contracts in different Member States.** Since researchers are among the most mobile categories of workers and can often hold a series of short contracts during their careers they are particularly likely to be confronted with difficulties.

Basic problems often derive from a **lack of awareness of researchers and employers on their social security rights.** This should be remedied by improving access to existing information. The EU Job Mobility Action Plan foresees **improvement of existing legislation and implementation practices concerning social security,** taking into account newer forms of mobility. As this will also apply to researchers it is important that their experiences are fed into the assessment of the needs for improvement. For example, encouraging the extension of the period for exportation of unemployment benefits could ease mobility.

Current EU legislation also provides some flexibility for Member States to derogate by agreement from the general rules on applicable legislation and chose to apply different social security legislation to the workers concerned or extend the period during which the home legislation applies, provided it is in the workers interest. Coordinated efforts could be made to **make more appropriate use of these derogations for the benefit of researchers.**

In addition, the circulation of researchers in relation to third countries could be facilitated by **specific clauses in bilateral and multilateral agreements on social security between Member States and third countries,** allowing for aggregation of periods, the possibility to remain subject to the home country social security regime for a certain period while working abroad and the exportation of benefits when they return to their home country.

Other issues arise because workers are increasingly relying on **supplementary pension schemes** in order to provide for their retirement. However, the conditions for acquisition, preservation and transfer of supplementary pension rights are often not well suited for mobile workers such as researchers. Extra efforts could be made for the provision of information specifically addressing researchers on the issue of supplementary pension rights.

A proposal for a directive covering the supplementary pension rights' portability is currently under negotiation. However this is unlikely to address the "transferability" of such rights. It is therefore desirable in the medium term to **explore the feasibility of measures to ease transfer of supplementary pension rights** for highly-mobile workers, including researchers.

**Pension providers should be encouraged to open up pan-EU pension schemes targeted to researchers** and companies should be encouraged to use pension providers in other EU Member States. This would allow mobile researchers to contribute to the same supplementary pension fund while working in different EU countries and still comply with the different social, labour and pension legislation in the participating Member States. This will require the possibility of opting out where researchers are obliged to participate in a domestic pension fund by law.

<sup>25</sup> including statutory pension rights, healthcare, unemployment benefits.

<sup>26</sup> Council Regulation (EC) No 1408/71 on the application of social security schemes to employed persons, self-employed persons and their family members moving within the EU, and Implementing Regulation (EEC) 574/72.

### Proposed priority actions:

- Commission and Member States to ensure that researchers and their employers have access to readily available and targeted information on the application of EU social security rules and on the implications for supplementary pensions of transnational mobility, including through improving existing sources at EU and national level such as the EUlisses website<sup>27</sup>
- Member States to better utilise the existing legal framework and agree appropriate bilateral and multilateral agreements on derogations foreseen in Regulation 1408/71 for the benefit of researchers
- Member States to include rules easing international mobility of researchers when concluding bilateral and multilateral social security agreements with third countries
- Commission and Member States to assess the need for a Commission or Council Recommendation on easing transfer of supplementary pension rights for highly-mobile workers, including researchers
- Commission and Member States to encourage pan-EU pension schemes targeted at researchers

### 4.3. ATTRACTIVE EMPLOYMENT AND WORKING CONDITIONS

**Employment and working conditions are essential in determining the attractiveness of any career.** As with other professions salary levels play a part in this, as does being able to balance professional and family life, but for researchers how academic performance is rewarded and having a supportive, professional environment where they

can pursue their research interests from an early stage are at least as important.

Despite important ongoing reforms, compensation and promotion structures in many public research institutions remain rigid and often make it difficult, for universities in particular, to compete in the international market. In many Member States **there is a two-tier workforce with short-term contracts for young researchers contrasting with little job to job mobility by senior researchers on permanent contracts.** The common principles on “flexicurity”<sup>28</sup> recently adopted by the European Council following agreement by the social partners are therefore highly relevant to researchers.

**Young researchers** are often employed on temporary short-term contracts to help carry out specific research projects. This restricts the chances of talented researchers making the transition to becoming independent researchers. This can encourage some to seek advancement elsewhere and delays the emergence of the next-generation of research leaders. In particular young researchers are also frequently supplied with atypical forms of remuneration (e.g. stipends, fellowships) which give limited access to social security and supplementary pension benefits under the applicable national social security scheme.

In contrast **senior researchers** are often on permanent contracts with progression based on seniority rather than performance. This limits incentives to change career path, e.g. by working in another country or sector either full or part-time or carrying out consultancy work. These disincentives, and others such as loss of pension entitlements, also minimise the potential role of **retired and end-of-career researchers.** Many would otherwise be willing to contribute by e.g., mentoring younger scientists, providing expertise for policy making or promoting research careers.

**Reconciling professional and private life** is not always given enough priority by the majority of research institutions in the EU and women’s careers in particular can suffer as a result. There is still a substantial imbalance in the proportion of women in the highest positions of

<sup>27</sup> [http://ec.europa.eu/employment\\_social/social\\_security\\_schemes/eulisses/jetspeed/](http://ec.europa.eu/employment_social/social_security_schemes/eulisses/jetspeed/).

<sup>28</sup> “Towards common principles of flexicurity – more and better jobs through flexibility and security”, COM(2007)359.

research careers even though female doctoral candidates frequently outnumber male.

Significant variations exist between researchers' salary levels within the European Research Area and compared to other world regions even after costs of living are accounted for, and significant differences between the average salaries of male and female researchers. These differences distort the single labour market, and can contribute to researchers taking up better opportunities in other economic sectors or outside Europe.

#### Proposed priority actions:

- Member States, funders and employers to improve the career development opportunities for early-stage researchers by moving towards “flexicurity principles”, regular evaluation, wider autonomy and better training; Research funders should take career development into account when evaluating research proposals
- Member States, funders and employers to progressively introduce more flexibility in contractual and administrative arrangements and relevant national legislation for senior and end-of career researchers to reward good performance and allow non-standard career paths
- Employers and funders should ensure that all publicly funded researchers receiving stipends and fellowships can receive adequate social security coverage
- Member States and public research institutions to achieve adequate gender representation in selection and funding bodies, and to systematically adopt policies that enable both men and women to pursue a scientific career with an adequate work-life balance such as developing dual career policies

#### 4.4. ENHANCING THE TRAINING, SKILLS AND EXPERIENCE OF EUROPEAN RESEARCHERS

Researchers need to be fully equipped with the skills necessary to participate in a range of roles in the modern knowledge economy. In particular, businesses increasingly thrive in an environment of ‘open innovation’ – where connections with each other and with public research institutions are used to explore ideas and develop products more effectively. **Links between an excellent public research base and business are therefore vital.** Science itself is also evolving, with **more emphasis on multi and interdisciplinary research, competitive funding, international collaboration and converting research results into successful innovation.**

But **most researchers in Europe are still trained in a traditional academic setting.** They often lack the skills and competences necessary to, for example, manage intellectual property, bid for project funding or set-up their own start up company. Researchers working for SMEs may find that they need to manage projects, handle the company's communications or manage intellectual property. Established researchers can also lose touch with the latest techniques and methods and may receive little support to expand their competences or skills as their career develops, e.g. into management positions within their institution.

The ongoing inter-governmental **Bologna process is set to address some issues such as curricula development in doctoral programmes and quality assurance.** Community measures such as the “initial training networks” under the **Seventh Research Framework Programme**, the proposed Joint Doctorates action in the **Erasmus Mundus programme** and the **European Institute for Innovation and Technology (EIT)** will also contribute.

But greater efforts on skills and life-long learning are needed at national level. **Researchers need to be exposed to relevant experiences throughout their qualifying period and beyond.** This will in turn help their career opportunities and ability to transfer between institutions, sectors and countries. This is only partly a matter of formal



training. Creating the right environment will require changes in many institutions, e.g. building up their links with the private sector.

#### Proposed priority actions:

- Member States to develop and support consistent “national skills agendas” to ensure that researchers are equipped with the necessary skills to contribute fully to a knowledge-based economy and society throughout their careers
- Member States to ensure better links between academia and industry by supporting the placement of researchers in industry during their training and promoting industry financing of PhDs and involvement in curriculum development

## 5. IMPLEMENTING THE PARTNERSHIP

In order for the partnership to successfully contribute to the creation of a world class European research system each partner will need to fully contribute. It is therefore important that:

- Member States, Council and Commission commit themselves to the **common objectives and endorse the proposed actions**;
- **Member States adopt a national action plan by early 2009** setting out specific objectives and actions to achieve the aims of the partnership. **Given the different starting positions of each Member State each plan is expected to focus on different aspects of the overall objectives of the partnership**;
- the **priority actions** identified are **implemented by the end of 2010**;
- the **Commission seeks to optimise existing Community instruments**, including those available through the FP7 People programme, to reinforce the partnership;
- as an integral part of the partnership, Member States and the Commission:
  - **identify good practice** and where appropriate **develop common guidelines**;
  - **monitor progress** at national and EU levels and report annually based on agreed indicators<sup>29</sup>;
  - make **maximum use of the existing Community legal framework** for the benefit of researchers;
- in line with its central role in the governance of ERA initiatives, **the Competitiveness Council monitors and assesses progress** in the implementation of the partnership actions;
- at the end of the first stage of the partnership in 2010 an **overall evaluation of the situation and results from actions by the partnership** is made and the need for further EU action to address specific outstanding issues is considered. The evaluation should **fully incorporate the views of researchers themselves**. A **single contact point for researchers** to notify the partnership of examples of good practice and ongoing difficulties should be considered as well as the **organisation of a major conference in 2009** to provide a platform for researchers’ views.

<sup>29</sup> Possible indicators are suggested in chapter 7 of the accompanying Commission Staff Working Document (1911/1912).

# BETTER CAREERS AND MORE MOBILITY: A EUROPEAN PARTNERSHIP FOR RESEARCHERS

## Council Conclusions

13671/08

26 September 2008

THE COUNCIL OF THE EUROPEAN UNION,

RECALLING,

- Its Resolutions on the reinforcement of the mobility strategy within the ERA (10 December 2001)<sup>1</sup>, on investing in research for European growth and competitiveness (22 September 2003)<sup>2</sup>, on the profession and the career of researchers within the ERA (10 November 2003)<sup>3</sup>;
- The general principles set out in the European Charter for Researchers and in the Code of Conduct for the Recruitment of Researchers (11 March 2005)<sup>4</sup>;
- Its conclusions on reinforcing human resources in science and technology in the European Research Area (18 April 2005)<sup>5</sup>;
- Its conclusions on the future of science and technology in Europe (23 November 2007)<sup>6</sup>;
- Its conclusions entitled "Family-Friendly Scientific Careers: towards an Integrated Model" (30 May 2008)<sup>7</sup>;
- Its conclusions on the launch of the Ljubljana Process – towards full realisation of ERA (30 May 2008)<sup>8</sup>;
- The European Council conclusions of 13 and 14 March 2008, launching the new cycle of the renewed Lisbon Strategy for Growth and Jobs

(2008-2010) and inviting Member States and the European Union to remove barriers to the free movement of knowledge, in particular by making the labour market for European researchers more open and competitive, providing better career structures, transparency and family-friendliness;

1. REAFFIRMS the European Union's ambition to reinforce scientific and technological excellence and to have the best research talents available to it;
2. RECALLS, in the framework of the Lisbon Strategy, and in a context of international competition, that the achievement of Europe's scientific and technological ambition requires the best researchers to be involved in the projects undertaken within the framework of the European Research Area (ERA), particularly as regards research financed through public funding. In order to achieve that objective, it is essential to create the necessary conditions so that female and male scientists, who are the key players in the construction of the ERA, are further motivated by a status which provides them with real social recognition and a satisfactory standard of living;
3. RECALLS the essential role of policies supporting mobility, which must be suitably organised and enable the achievement of attractive and progressive scientific careers, guaranteeing, inter alia, the reconciliation of professional and private life;
4. RECOGNISES efforts already undertaken by the Commission and Member States in improving the working conditions and mobility of young researchers and established researchers alike;

1 OJ C 367, 21.12.2001.

2 OJ C 250, 18.10.2003.

3 OJ C 282, 25.11.2003.

4 OJ L 75, 22.3.2005.

5 8194/05.

6 14693/07.

7 10212/08.

8 10231/08.

5. EMPHASISES the need to accelerate progress and to amplify the initiatives designed to strengthen the attractiveness of the European higher education area, of research and of scientific careers, as well as to strive to strengthen the links between the fields concerned by coordinating the Lisbon Strategy with the Bologna Process around the doctorate and the modernisation of higher education; NOTES also, in this context, the crucial importance of innovation and, consequently, the need for enhanced collaboration between the worlds of academic research and industry;
6. WELCOMES the communication from the Commission “Better careers and more mobility: A European partnership for researchers”, which proposes that Member States endorse common and complementary objectives in the field of careers and mobility of researchers;
7. PROPOSES to set as a common overall objective for the partnership which is to be established between Member States, associated States and the Commission, improvement of the professional situation of researchers in Europe and increased mobility through an approach combining complementarity and consistency between national and Community levels;
8. CONSIDERS that the following priority lines of action proposed by the Commission are such as to constitute a good basis for the development and implementation at national level of any initiatives at national level that Member States consider appropriate:
  - systematic opening up of recruitment for researchers;
  - meeting the needs of mobile researchers with regard to social security and supplementary pensions;
  - improvement in work and employment conditions in order to make scientific careers more attractive;
9. RECOGNISES that:
  - improvement in the training, skills and experience of researchers;
  - the partnership principle proposed by the Commission, which should be effective and balanced, and comply with the principle of subsidiarity, constitutes an appropriate approach for reinforcing coordination and cooperation at European level;
  - the “Human Resources and Mobility” Steering Group, the mandate of which will have to be adapted, is the most appropriate forum for conducting this partnership in a flexible manner. CREST will have to be informed of the progress of this Group’s work, particularly as regards the four priority lines of action;
  - a balance must be found between opening up at European level and respect for the autonomy of research and higher education institutions;
  - regarding social security coordination issues and supplementary pensions, relevant stakeholders in these areas will need to cooperate in the development of concrete solutions.
10. STRESSES the need to draw fully on the European legal framework already in force and, especially, to consider the opportunities offered by the Community rules on the coordination of social security schemes<sup>9</sup>, including exemptions under Article 17 of Regulation (EEC) No 1408/71<sup>10</sup> in the case of long-term expatriation; HIGHLIGHTS the possibilities for bilateral and multilateral agreements on social security between Member States and third countries;

<sup>9</sup> Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, which will eventually be replaced by Regulation (EC) No 883/2004 and its implementing Regulation, which is currently being finalised.

<sup>10</sup> The exemptions under Article 17 of Regulation (EEC) No 1408/71 are carried over into Article 16 of the new Regulation (EC) No 883/2004.

11. INVITES Member States to continue and step up efforts to encourage the effective implementation, on a voluntary basis, of the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers and to pursue the implementation of the “scientific visa” Directive<sup>11</sup>, except if they are not bound by it or subject to its application;
12. INVITES Member States:
- to implement the objectives of this partnership in the framework of the Lisbon Strategy and of the guidelines for growth and jobs (2008-2010), and in particular guideline No 7<sup>12</sup>;
  - in consultation with stakeholders, to define national objectives and specific actions on the basis of the priority lines of action proposed by the Commission or any other appropriate actions; the priority actions implemented by Member States should reflect the specific situation of each Member State and constitute a coherent set of specific actions, existing, strengthened or and new, contributing to the common overall objectives and to national objectives, including, if necessary, actions adapting national laws;
  - to report regularly on actions undertaken or envisaged, and for the first time by the end of 2009;
  - to summarise the main objectives, measures and actions in their national reform programmes (2008-2010) and in annual reports within the Lisbon Strategy framework;
13. INVITES Member States and the Commission to
- define and use appropriate indicators for monitoring progress, at both national and Community level;
- involve relevant stakeholders (in particular researcher associations, employers of researchers, and funding agencies);
  - strengthen mutual learning activities through information exchange, identification of best practices and, where appropriate, the use of peer-reviews;
  - make full use of the existing tools<sup>13</sup>, while enhancing them where necessary;
  - develop common guidelines where they can reinforce a consistent implementation of actions of common interest;
  - study how best to implement certain priority lines of actions, including those concerning the portability of individual grants and the needs of mobile researchers in terms of supplementary pensions, in consultation with the appropriate bodies concerned;
14. INVITES the Commission, in consultation with Member States, to
- report annually on progress made;
  - undertake a global assessment of actions and results of the partnership in 2010;
  - adapt and strengthen Community action, notably within the “People” programme of the 7th Framework Programme, so as to respond better to the needs of researchers;
15. UNDERTAKES, in the context of strengthened governance of the ERA, resulting from the Ljubljana Process, to regularly discuss progress and provide the necessary guidelines.

11 Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (OJ L 289, 3.11.2005, p. 15).

12 7280/08.

13 Such as EURAXESS.



## JOINT PROGRAMMING

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TOWARDS JOINT PROGRAMMING IN RESEARCH:  
WORKING TOGETHER TO TACKLE COMMON  
CHALLENGES MORE EFFECTIVELY

Communication from the Commission to the European Parliament,  
the Council, the European Economic and Social Committee  
and the Committee of the Regions

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JOINT PROGRAMMING OF RESEARCH IN EUROPE  
IN RESPONSE TO MAJOR SOCIETAL CHALLENGES

Council Conclusions

# TOWARDS JOINT PROGRAMMING IN RESEARCH: WORKING TOGETHER TO TACKLE COMMON CHALLENGES MORE EFFECTIVELY

Communication from the Commission to the European Parliament,  
the Council, the European Economic and Social Committee  
and the Committee of the Regions

COM(2008) 468

15 July 2008

## INTRODUCTION

Investing in research today ensures a better tomorrow, both for ourselves and for future generations. Europe not only needs to invest more in research, but also needs to invest it to better effect, if it is to achieve its declared vision: a balanced and sustainable development, marrying economic growth and competition with high levels of quality of life and the environment we live in, and ensuring an effective EU for the benefit of citizens in all Member States.

The Lisbon Strategy recognised this by setting as its most urgent objective the transition to a knowledge-based society - with science, technology and innovation at its heart - and by calling for more and better investment in research. Europe must renew its efforts if it is to succeed. Above all, it must be prepared to think courageously and innovatively about how it organises its research.

This Communication sets out an ambitious new approach for making better use of Europe's limited public R&D funds through enhanced cooperation. The new initiative it proposes - namely Joint Programming - marks a change in European research cooperation. Joint Programming offers a voluntary process for a revitalised partnership between the Member States based on clear principles and transparent high-level governance. By enhancing cooperation among those that develop and manage research programmes, it aims to increase the efficiency and impact of national public research funding in strategic

areas. Joint Programming targets public research programmes first and foremost, which means public-public cooperation. Hence it differs in nature from the public-private cooperation embodied in initiatives such as Joint Technology Initiatives<sup>1</sup>. Nonetheless, industry - and other stakeholders - should play a role in the consultative process and in the implementation of specific Joint Programming Initiatives. They are also important beneficiaries of Joint Programming.

Joint Programming has the potential to become a mechanism that is at least as important as the Framework Programmes in the European research landscape, and to actually change the way in which Europeans think about research. In proposing this new approach, this Communication is an explicit response to the repeated calls for more and better Joint Programming which have emanated from the European Council, the Council and the European Parliament over the past years<sup>2</sup>. It also responds to stakeholders' demands for a voluntary, bottom-up approach combined with strategic European-level guidance and their rejection of a "one-size-fits-all" method.

In this context, the European Strategic Energy Technology Plan (SET-Plan)<sup>3</sup> provides a pilot experience in addressing a major European societal challenge together. An integral pillar of Europe's Energy and Climate Change policies, the SET-Plan aims to accelerate the development and deployment of low carbon technologies through a coherent set of actions, including Joint Programming.

1 To be noted : Joint Technology Initiatives implemented in the ICT area (ENIAC and ARTEMIS, in the areas of nanoelectronics and embedded computer systems, respectively) leverage industry, Community and national public funds.

2 See the Impact Assessment accompanying this Communication.

3 COM(2007)723 of 22.11.2007.

This Communication is one of the five policy initiatives planned by the Commission in 2008 as a follow-up to the Green Paper on “The European Research Area: New Perspectives”<sup>4</sup>. It relates in particular to the dimension “Optimising Research Programmes and Priorities” and is a further step in the creation of a ‘fifth freedom’ by removing barriers to the free movement of knowledge.

## 1. THE NEED FOR A NEW APPROACH TO COOPERATION BETWEEN MEMBER STATES IN THE FIELD OF RESEARCH

### SCIENCE AND TECHNOLOGY MUST BE MADE TO COUNT IN TACKLING EUROPE'S MAJOR SOCIETAL CHALLENGES<sup>5</sup>

How Europe responds to a number of major societal challenges will shape its future in the decades to come. These challenges include sustaining Europe's prosperity in the face of increased global competition; dealing with the needs of its ageing population and the challenges of immigration; and stimulating sustainable development, especially in the context of climate change, securing the supply of energy, preserving human and environmental health, ensuring food quality and availability as well as safeguarding citizen security.

At the same time, European citizens increasingly expect solutions to these challenges to be found through science and technology.

Our non-European partners – both traditional (US, Japan) and emerging (China, India, etc.) - have got the message. They are launching large-scale targeted research programmes and collaborate with each other. Europe and its Member States need to develop a

stronger and more coordinated and coherent response to these challenges, where appropriate in collaboration with international partners.

Compared to its main partners, Europe is still under-investing in research, and R&D spending - by both the public and the private sector - has generally stagnated over the past decade. If it is unable to increase its spending quickly and substantially, Europe has to find new and more innovative ways to use its scarce R&D resources more efficiently and effectively. To increase the societal returns and benefits from public R&D funds, Europe should also reinforce its capacity to transform research results into societal and economic benefits, notably through the innovative capacity of European industry as well as through fostering demand for the resulting innovations<sup>6</sup>.

### THE BENEFITS MISSED BECAUSE OF COMPARTMENTALISED RESEARCH

In recent years, Member States and the Community have taken many initiatives to boost the impact and efficiency of public research. Yet one of the most obvious causes of sub-optimal returns to R&D has not been addressed sufficiently: namely the lack of collaboration and coordination between national public R&D programmes. Stakeholders have long recognized this as a weakness of the EU R&D system. However, despite efforts in recent years to address this problem, Europe's research landscape remains deeply compartmentalised.

Today, 85% of public R&D is programmed, financed, monitored and evaluated at national level, with too little collaboration or coordination between countries. Less than 6 percent of total R&D investment and only 15 percent of European publicly financed civil R&D (of which 10 percent is accounted for by intergovernmental organisations and schemes, and 5 percent by the Framework Programme) is financed in a cross-border collaborative manner.

4 Besides this Communication, the Commission adopted this year:  
- A Recommendation “on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research organisations”, COM(2008)1329 of 10.4.2008;  
- A Communication “Better careers and more mobility: a European partnership for researchers”, COM(2008)317 of 23.5.2008;  
- In addition, it is preparing a Council Regulation on a “Community legal framework for a European Research Infrastructure (ERI)” and a Communication on “A strategic European framework for international science and technology cooperation”.

5 This concept covers economic, social and environmental challenges.

6 Creating an Innovative Europe, report of group chaired by Esko Aho to the Commission, January 2006.

The issue is not that all research programming should be carried out in a collaborative manner and that purely national programming should be discontinued. National programming has its place in the European research landscape, especially where it addresses national needs and priorities, and where the cooperation at European level would not create advantages of significant scale and scope.

Rather the issue is that, in areas of strategic importance for the whole or a large part of Europe, the fragmentation of public research programming leads to sub-optimal returns and is costing Europe dearly, as well as preventing it from realising its societal objectives:

- National research programmes may unnecessarily duplicate each other from a pan-European perspective and lack the required programme scope and depth;
- The multitude of national procedures complicates cross-border programmes and discourages internationally-oriented research actors from accessing research funding across borders;
- The lack of cross-border programme collaboration makes it difficult to address common challenges jointly, complicates the pooling of data and expertise scattered across Europe, hinders cross-border researcher mobility and training, and slows down the international dissemination of research results;
- Crucially, it also hampers pan-European strategic research agenda-setting and horizontal policy coordination.

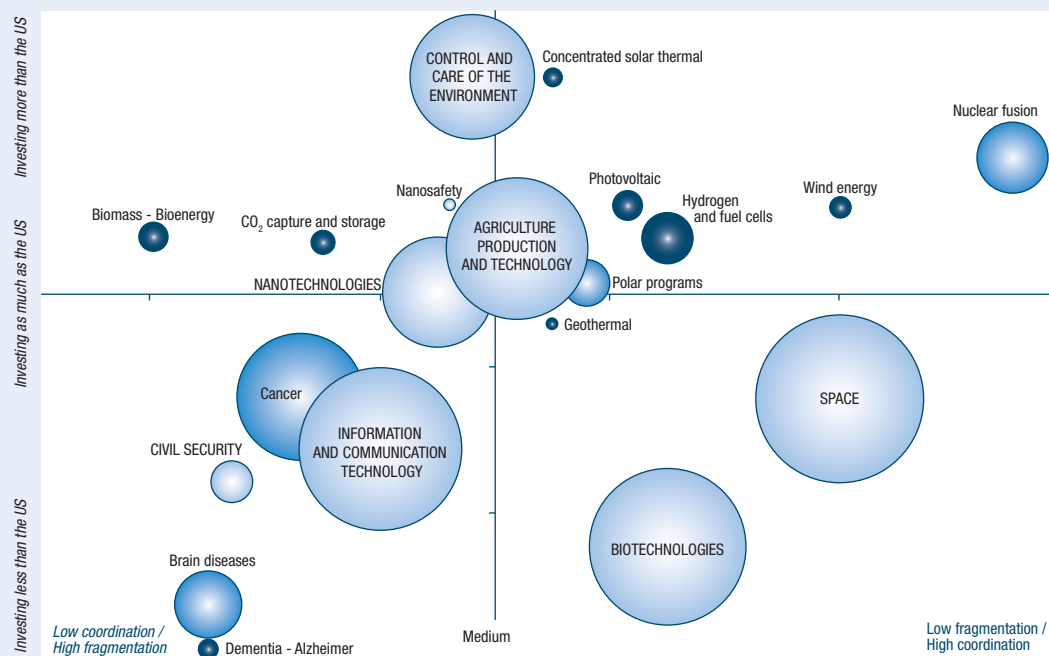


**BOX 1: A SCATTERED PUBLIC RESEARCH IN THE EUROPEAN RESEARCH AREA.**

S&T fields differ hugely in terms of, for example, the amount of R&D invested, the degree of existing coordination/fragmentation and performance – and there is no straightforward linear relationship between these factors. The graph below shows the size of public funding, an assessment of the degree of coordination/fragmentation at European level, and the relative size of European public funding compared to the US for some S&T fields.

The graph is not exhaustive, but serves to illustrate that each S&T field is unique and requires its own tailored approach to Joint Programming, the development of which should be evidence-based and grounded in the strategic analysis of detailed information on respective S&T fields.

This will require the full involvement of Member States.



X-axis: This estimates the degree of coordination among Member State (MS) research programmes and of funding and institutional fragmentation, based on qualitative assessments from scientific publications, strategic reports, etc;

Y-axis: This presents the logarithmic ratio of public R&D investment in Europe (MS+European Commission (EC)) compared to US;

Size of bubbles: This is directly proportional to the amount of European public funding (MS+EC), based on New Cronos (e.g. GBAORD) and US government data as well as scientific publications.

Ideally, some research fields should have been further disaggregated. The biotechnology bubble, for example, should have been divided into health, industrial & environment and plant, animal and food. This was not always possible due to a lack of comparable data.

## WHY A NEW APPROACH IS REQUIRED

To move forward, Europe needs to build upon its successes in cross-border public research, but it must also recognize and address the limits of existing approaches.

Some of Europe's greatest scientific success stories have involved cross-border pooling of public R&D funds. Various inter-governmental research organisations have emerged over the last 50 years, such as the European Organisation for Nuclear Research (CERN), the European Molecular Biology Laboratory (EMBL) and the European Space Agency (ESA). In the 1970s and 1980s, inter-governmental schemes like COST and EUREKA were launched, and the Framework Programme for Research was initiated. Bilateral agreements between Member States have multiplied. And, since 2005, the Community has launched some promising new instruments of coordination and collaboration such as the ERA-NET Scheme and Article 169 initiatives<sup>7</sup>.

However, the impact of these Community initiatives could have been larger if there would have been more overall strategic focus, more high-level political commitment on the part of Member States, more transparency on the national research systems, and less instrument rigidity. Increasing these initiatives, and the overall size of FP7, makes little sense if the lack of strategic programming between Member States is not addressed. Bilateral agreements between Member States as well as intergovernmental research organisations and schemes have a limited impact. While the Open Method of Coordination has allowed a fruitful exchange of ideas, it has not resulted in concrete national research policy coordination initiatives between Member States or in common agenda setting in areas of strategic importance.

However, there are lessons that can be learned from these recent Community initiatives to stimulate programme coordination and collaboration, and these can provide a vital basis for making progress in the field of Joint Programming.

There is now a unique opportunity to make a leap forward in pan-European research cooperation which could be as important as the creation of the Framework Programmes. Through this Communication, the Commission is seeking to facilitate the development of a solution by launching a strategic and structured process.

## BOX 2: JOINT PROGRAMMING FOR ADDRESSING THE AGEING SOCIETY

The increasing incidence of Alzheimer's disease and other forms of dementia is perhaps one of the most worrying signs of our ageing society. Alzheimer's disease is a degenerative disease which slowly and progressively destroys brain cells and affects memory, thinking, judgement and personality. In the long term, it often leads to additional problems such as mental confusion, speech impairment, sudden changes of mood and disorientation in time and space. About one person in 20 over the age of 65 suffers from dementia. The number of people in Europe with dementia – between 50 and 70 percent of whom suffer from Alzheimer's disease – is around 5.5 million, a number which for those over 60 is expected to increase to 10.7 million by 2040. Dementia-related healthcare costs already exceed 80 billion Euro in the EU. So far, there is no preventative or curative treatment for Alzheimer's disease. Yet European public support explicitly allocated to Alzheimer's research is dwarfed by the support in the US. Moreover, there is no major institutional driving force behind Alzheimer's research in Europe. Resources are split between numerous and diverse funding agencies spread over the 27 EU Member States. This creates the risk of wasteful duplication of research funding at EU level. Such a commonly faced problem calls for a common European effort to develop a common solution. In the US, the National Institute of Health and the National Institute on Aging are powerful institutional drivers of research into Alzheimer's disease. The question is what will Europe do to tackle this major societal challenge?

<sup>7</sup> In this context, a more strategic approach, going beyond the current coordination of the several ERA-NET actions covering marine research is proposed in the foreseen Commission Communication "A Marine and Maritime Research Strategy for Europe", which will create concrete opportunities for joint programming.

## 2. JOINT PROGRAMMING – WORKING TOGETHER TO TACKLE COMMON CHALLENGES MORE EFFECTIVELY

### JOINT PROGRAMMING: THE CONCEPT

Joint Programming involves Member States engaging voluntarily and on a variable-geometry basis in the definition, development and implementation of common strategic research agendas based on a common vision of how to address major societal challenges. It may involve strategic collaboration between existing national programmes or jointly planning and setting up entirely new ones. In both cases, it entails putting resources together, selecting or developing the most appropriate instrument(s), implementing, and collectively monitoring and reviewing progress. It aims to increase and improve the cross-border collaboration, coordination and integration of Member States' publicly funded research programmes in a limited number of strategic areas, and thus to help Europe boost the efficiency of its public research funding so as to better address major societal challenges.

### JOINT PROGRAMMING: AN AMBITIOUS STRUCTURING OBJECTIVE

- Joint Programming is concerned with changing the structure of the European research landscape. It is a comprehensive, long-term and strategic process, whose aim is to boost Europe's ability to address major economic and societal challenges the resolution of which depends critically on research. Joint Programming is about defining common visions and strategic research agendas, implementing them in the most appropriate manner, and achieving tangible societal impact. It sets clear and realistic targets and deliverables with a view to achieving major breakthroughs in the areas where it is deployed;
- Joint Programming is not a mere labelling exercise, where existing national research programmes addressing the same topic are simply re-grouped under a common title, or loosely coordinated and aligned;

Nor is it about achieving a rigid division of labour between countries for the research activities in a particular field or about transferring national research budgets to Brussels. Joint Programming is about achieving structuring effects in order to increase the efficiency and impact of public research funding;

- However, stakeholders should be aware of what this involves. At its most ambitious, Joint Programming requires that Member States be prepared to move in the direction of the definition and implementation of common research agendas with multi-annual, commonly decided activities (planning, launching, evaluating) and funding mechanisms.

### ... WITH A PRAGMATIC AND FLEXIBLE APPROACH

- Joint Programming requires a new mindset in the Member States. Above all, it requires concrete commitments and actions by Member States and a rethinking and reorganisation of the way national research programmes are defined and implemented by refocusing them towards common objectives;
- That is why Joint Programming has to be a voluntary process based on the principle of variable geometry and open access. There is no need for all Member States to be involved in a specific Initiative, but the partners must be able between them to provide the required critical mass of resources;
- That is also why it is essential that Joint Programming employs a realistic and flexible approach and a step-by-step process (see chapter 3) in order to maximise its possible structuring effect and societal impact;
- Joint Programming does not involve Community funding a priori. It is first and foremost about Member States defining common strategies and putting together national resources. At the same time, it does not rule out the possibility of complementary Community funding depending on the added value, European dimension and possible structuring impact of the initiatives concerned.

## THE BENEFITS OF JOINT PROGRAMMING

Joint Programming will benefit Member States, European Research Programme managers, Europe's scientists and enterprise:

- Joint Programming makes it easier to address common challenges together, to develop common solutions and to speak with one voice in the international arena;
- It helps overcome barriers to entry, such as high start-up and operating costs in certain S&T fields;
- It helps to optimise the scope of research programmes across Europe, to eliminate wasteful cross-European programme duplication and to increase programme depth;
- It promotes scientific excellence through joint calls with common funding and peer review, which increase the competition for funds and raise the quality of research proposals;
- By supporting cross-border project collaboration, Joint Programming facilitates the pooling of data and expertise scattered across several countries or throughout Europe as a whole, enables the rapid dissemination of research results, promotes cross-border mobility and training of human resources, and increases the scientific, technological and innovative impacts of every Euro invested in public research;
- It helps to strengthen coordination with other related policies by virtue of greater programme visibility, reduces programme management costs, enables cross-border policy learning and improves the accountability and transparency of public research programmes.

The aforementioned benefits will also be of particular value for those regions and countries that are catching up in terms of research investment and performance. As a result of the important S&T benefits derived from Joint Programming and its significant structuring effects,

Europe's citizens will benefit from stronger economic growth, greater competitiveness and higher employment, and from quicker and better solutions for social and environmental problems.

To further clarify these benefits, an example is given of what Joint Programming might contribute to the challenges posed by an ageing society (see Box 2). This example is purely illustrative and hypothetical, its sole objective being to make more concrete and visible the potential power and impact of Joint Programming as a mechanism for cross-border programme collaboration in strategic fields. A more detailed analysis of the potential of Joint Programming for other societal challenges and technology areas is given in the Commission staff working document accompanying this Communication.

## 3. MAKING JOINT PROGRAMMING OPERATIONAL

In this Communication, the Commission proposes a pragmatic methodology for achieving Joint Programming in a limited number of agreed areas. The process to identify these specific areas is described in the next chapter. This chapter 3 presents the methodology required to make it operational. It is based on experience with European Technology Platforms, but adapted to public research programmes. It involves different steps, in line with the life-cycle of research programmes, namely from programme definition via implementation to monitoring and evaluation.

Three stages can be identified:

1. Development of a common vision for the agreed area: This vision should set the longer-term objective(s), to be defined by authoritative experts in the field and politically endorsed. It would be developed on the basis of credible evidence (possibly including (joint) foresight activities) and broad stakeholder (public) consultations, in particular with the scientific and industrial communities. It could equally be based on a preliminary (joint) evaluation of existing programmes and capacities;

2. Once the vision has been established, it should be translated into a Strategic Research Agenda (SRA), entailing specific, measurable, achievable, realistic and time-based (SMART) objectives. The strategic research agenda should make the vision operational and link the implementation of the vision's objectives with existing competences in Europe or new ones to be developed. A good knowledge of existing programmes and competences across Europe (and beyond) will be essential;
3. Implementation of the SRA: All participating public authorities orient their programmes and funding to contribute in a coherent manner to the implementation of the SRA. The full tool box of public research instruments (National and regional research programmes, Intergovernmental research organisations and collaborative schemes, Research infrastructures, Mobility schemes...) should be explored and used to implement the individual Joint Programming Initiatives. The implementation may or may not include EU funding and instruments through the Framework Programme. Regular monitoring and evaluation of progress against the SMART objectives should be ensured, and its results reported to the political level.

Joint Programming could be made easier if a number of framework conditions are in place:

- Agreement on a number of shared principles and procedures for peer review ("the scientific rules of the game");
- Development of common methodologies for foresight activities and for joint evaluation of national or regional programmes or investments in specific areas of research;
- Definition of common principles for cross-border funding of research by national or regional authorities ("the financial rules of the game");

- Effective measures to ensure the protection of Intellectual Property Rights as well as to facilitate the dissemination and optimal use of research outputs.

#### 4. A PROCESS FOR IDENTIFYING SPECIFIC AREAS FOR JOINT PROGRAMMING

As set out in this Communication, Joint Programming is about Member States developing common visions and Strategic Research Agendas, to address specific societal challenges.

As already stated, it is a voluntary process based on the principle of variable geometry and open access. However, in the framework of the wider Ljubljana Process, it makes sense for the EU institutions to play a role in its governance, while the ownership and responsibility of Member States must be emphasized. The Commission can act as a facilitator and will stand ready to offer assistance requested by Member States involved in Joint Programming Initiatives. It will also keep the Council informed of developments so that the latter can ensure effective monitoring and implementation. This will also ensure open access by keeping all Member States informed about Initiatives that are planned or underway so that they can join at any stage.

The Commission therefore:

- Invites the Council to endorse, by the end of 2008, the concept and objectives of Joint Programming;
- Invites the Council to ask Ministers to nominate high-level representatives to identify and motivate, by summer 2009, specific areas for Joint Programming, on the basis of clear criteria (see box 3) and stakeholder consultations. The Commission proposes to act as the secretariat of this group;

- Will submit for Council adoption by end 2009, Recommendations aimed at launching Joint Programming Initiatives in the specific areas identified by the high-level representatives. These Recommendations will include more detailed suggestions with respect to the governance and the implementation of Joint Programming Initiatives, taking into account feedback from the Council and from the Member States committed to participate in the individual Initiatives;
- Will initiate cooperation between interested organisations and authorities with a view to improving the framework conditions for Joint Programming;
- Invites the Council to oversee and regularly monitor progress of the Joint Programming Initiatives and, if necessary, consider further steps to ensure their effective implementation.

### BOX 3: CRITERIA FOR THE IDENTIFICATION OF SPECIFIC AREAS FOR JOINT PROGRAMMING

- The area addresses a pan-European/global socio-economic or environmental challenge;
- Publicly funded research is central to addressing the challenge;
- There is a clear added value in Joint Programming in the area, e.g. there is a need for publicly funded research of a scale and scope beyond the capabilities of individual Member States;
- The area is sufficiently focused so that clear and realistic objectives can be set.

In addition, a Joint Programming Initiative in a chosen area should:

- Contribute to overcoming fragmentation and wasteful duplication of publicly funded research, and contribute to more efficient and effective use of public resources;
- Involve the key public initiatives within the area, and have the full backing and commitment of the participating Member States

# JOINT PROGRAMMING OF RESEARCH IN EUROPE IN RESPONSE TO MAJOR SOCIETAL CHALLENGES

## Council Conclusions

16775/08

2 December 2008

THE COUNCIL OF THE EUROPEAN UNION,

RECALLING

- Its resolution on CREST (28 September 1995)<sup>1</sup>, which authorises this committee in particular to “promote the coordination by the Community and the Member States of their R&D activities in order to ensure mutual consistency between the national policies and Community policy”;
  - Its resolutions on the creation of the European area of research and innovation (15 June 2000)<sup>2</sup> and on the realisation of the European Research Area: orientations for EU action in the field of research (2002–2006) (16 November 2000)<sup>3</sup>;
  - Its conclusions on progress accomplished in the development of the European Research Area and on providing a new momentum (26 November 2002)<sup>4</sup>;
  - The Commission Green Paper on “The European Research Area: New Perspectives”<sup>5</sup>;
  - Its conclusions on the future of science and technology in Europe (23 November 2007)<sup>6</sup>;
  - Its conclusions on the Commission communication “A European Strategic Energy Technology Plan (SET Plan) – Towards a low-carbon future”<sup>7</sup> (28 February 2008);
  - Its conclusions on the launch of the “Ljubljana process” – realisation of the European Research Area (30 May 2008)<sup>8</sup>;
  - Its conclusions concerning “A common commitment by the Member States to combat neuro-degenerative diseases, particularly Alzheimer’s” (26 September 2008)<sup>9</sup>;
  - Its Key Issues Paper (KIP) for 2008: Contribution of the Competitiveness Council to the Spring European Council (25 February 2008)<sup>10</sup>, in which Member States and the Commission were encouraged to continue developing initiatives for joint programming of research in areas suited to such an approach, allowing a more strategic and better structured approach to the launch of new joint programmes and common calls for projects;
  - The conclusions of the European Council of 13 and 14 March 2008, which launched the new cycle of the Lisbon strategy for growth and jobs (2008–2010) and which, with the aim of fully developing the potential for innovation and creativity of European citizens, confirmed that particular attention should be given to further initiatives for joint programming of research;
1. RECOGNISES that, in the context of globalisation and the intensification of global competition, there has been a growing awareness in Europe of the existence of common societal challenges which no Member State is capable of resolving alone. Certain issues related to, for example, climate change, the ageing of the population, energy, water or food supplies, banking finances and security<sup>11</sup> are now of such a magnitude that Europe needs to elaborate a stronger, better coordinated, more coherent and more global response to these challenges;

1 OJ C 264, 11.10.1995, p. 4.

2 9026/00.

3 13952/08.

4 14913/02.

5 8322/07.

6 14693/07.

7 6326/1/08 REV 1.

8 10231/08.

9 13668/08.

10 6933/08.

11 This list is without prejudice to themes for joint programming, which will be chosen at a later stage.

2. RECALLS the large volume of public resources committed to research and innovation in the various Member States, including at regional level, and UNDERLINES the need for and the potential of scientific, financial and human resources for increased cooperation between Member States, through the implementation of common initiatives aimed at addressing major societal challenges, in order to strengthen Europe's capacity to transform the results of its research into tangible benefits for society and for the overall competitiveness of its economy;
3. UNDERLINES the important role of the Community Framework Programme for Research and Technological Development (FP) and the related instruments, such as ERA-NET, ERA-NET + and the initiatives under Article 169, in mobilising Member States' scientific and financial resources for implementing R&D initiatives of common interest, and ENCOURAGES their continued use in the context of joint responses to tackle major societal challenges;
4. RECOGNISES also the importance of existing activities aimed at coordinating programmes conducted by national agencies and research organisations in several Member States, including at regional level, and by international organisations, as well as other cross-border and intergovernmental initiatives in this context (EUREKA, COST); and ENCOURAGES their continued use;
5. RECOGNISES that in addition to the existing regional, national, intergovernmental and Community instruments to pool or coordinate national R&D efforts, there is an increasing need for a new and more strategic approach. This approach should be based on the joint identification of societal challenges of common interest and a strengthened political commitment by Member States to produce common or concerted responses, in order to increase the efficiency and the effectiveness of public R&D funding in Europe;
6. In this context, WELCOMES the concept and objectives of joint programming as formulated in the communication of the Commission "Towards joint Programming research: Working together to tackle common challenges more effectively", which calls for the implementation of a process led by the Member States to step up their cooperation in the R&D area in order to better confront major societal challenges of European or worldwide scale, where public research plays a key role;
7. UNDERLINES that, while fully recognising the competence of Member States and regions over their choice of research and innovation policies and related allocation of resources, the participation of Member States and FP associated countries in joint programming should be carried out on voluntary basis and according to the principle of variable geometry and open access. The participation in joint programming should also be based on scientific excellence and full utilisation of the research potential of its members;
8. ENCOURAGES Member States, with the support of the Commission, to consider how best to address the following issues during the development and implementation of joint programming:
  - A coherent approach on the peer review procedures;
  - A coherent approach for foresight activities and for evaluation of joint programmes;
  - A coherent approach to funding of cross-border research by national or regional authorities;
  - Effective measures to ensure the optimum dissemination and use of research findings, inter alia via common practices for the protection, management and sharing of intellectual property rights;



- Involvement of the various scientific and, where appropriate, industry communities.
9. CONSIDERS that the following criteria should help identify joint programming themes:
- There is a sufficient and effective commitment of Member States concerned;
  - The theme addresses a European or global challenge and is sufficiently focused so that clear and realistic objectives can be laid down and followed up;
  - It brings a clear added value to overall current research financed from national and Community public funds, as regards both economies of scale and better thematic coverage;
  - Relevant regional, national and European stakeholders, including where appropriate the private sector besides scientific communities and funding agencies, have been involved in developing the theme;
  - A joint programming approach has the potential of translating the output of good public research into benefits for European citizens and European competitiveness, and of increasing the efficiency and impact of public R&D financing by involving the key public initiatives in the area.
10. ASKS Member States to collaborate in a dedicated configuration of CREST (hereinafter referred to as "High Level Group for Joint Programming" or GPC) to identify, in accordance with the mandate in the annex, the themes for joint programming chosen following broad public consultation of the different regional, national and European scientific communities, and of the private sector where appropriate.
- Taking account of the framework conditions laid down in paragraph 8, each thematic proposal presented to GPC by one or more of its members should include preliminary suggestions concerning a common vision, the governance and implementation of joint programming initiatives. GPC should evaluate each thematic proposal for joint programming on the basis of the criteria laid down in paragraph 9;
11. ASKS GPC to identify and substantiate the first list of a limited number of joint programming themes in due time; and INVITES the Commission, within the remit of its competence, to submit a proposal for a Council Recommendation in preparation for the launch of joint programming initiatives which correspond to the themes identified by the GPC, together with the state of play of research in the field of each of these themes, so that the Council is able to adopt joint programming initiatives no later than 2010;
  12. UNDERLINES that joint programming is a process led by Member States, and that the Commission's role is to facilitate the process of identification and provide support as necessary;
  13. In this context, EMPHASISES the need to analyse the relevance and the potential of existing regional, national, Community and intergovernmental instruments for meeting the identified societal challenges, and INVITES the Commission to carry out such an examination in close cooperation with the other stakeholders and provide input on the most appropriate instruments to meet these challenges;
  14. CONSIDERS it necessary to launch a pilot joint programming initiative on combating neurodegenerative diseases, in particular Alzheimer's, and INVITES the Commission to submit a proposal for a Council Recommendation in preparation for the launch of this pilot initiative as soon as possible in 2009;
  15. CONSIDERS that all procedures concerning joint programming of European research must be examined within the framework of the general approach to optimise the governance of the European Research Area, as provided by the Ljubljana Process;
  16. INVITES CREST to report, in the context of these conclusions, to the Council on joint programming every two years: the first report is expected in 2010.

## ANNEX

### MANDATE OF THE HIGH LEVEL GROUP ON JOINT PROGRAMMING (GPC)

1. GPC:
  - a) is a dedicated configuration of CREST composed of high-level representatives of the Member States and of the Commission and, where appropriate, associated countries;
  - b) will be chaired by the representative of the Presidency-in-office of the Council;
  - c) will be responsible for identifying according to a continuous process the possible themes for joint programming selected following broad consultation of the different regional, national and European scientific communities as well as, where appropriate, other public and private stakeholders mentioned in paragraph 10;
  - d) in this framework, will be responsible for evaluating each proposal submitted to it on the basis of the criteria in paragraph 9;
  - e) will contribute to the preparation of the debates and decisions of the Competitiveness Council on joint programming, within the mandate of CREST and without prejudice to the responsibilities of the Committee of Permanent Representatives;
  - f) will initiate the consideration of issues referred to in paragraph 8.
2. The Commission will support the work of GPC within the remit of its competence.
3. The Member States will nominate their representatives at meetings of GPC before the end of January 2009.



## RESEARCH INFRASTRUCTURES

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PROPOSAL FOR A COUNCIL REGULATION ON  
THE COMMUNITY LEGAL FRAMEWORK FOR A EUROPEAN  
RESEARCH INFRASTRUCTURE (ERI)\*

Commission Proposal

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EUROPEAN RESEARCH INFRASTRUCTURES  
AND THEIR REGIONAL DIMENSION

Council Conclusions

\* Warning: the current text corresponds to the proposal made by the European Commission in July 2008. The draft regulation has already received a positive opinion from the European Parliament (with several requested amendments however) and is under discussion at the Council level. The reader should therefore be aware that the final regulation will differ from the Commission proposal produced here.

# PROPOSAL FOR A COUNCIL REGULATION ON THE COMMUNITY LEGAL FRAMEWORK FOR A EUROPEAN RESEARCH INFRASTRUCTURE (ERI)

## Commission Proposal

COM(2008) 467

25 July 2008

### EXPLANATORY MEMORANDUM

#### 1. CONTEXT OF THE PROPOSAL

#### FOUNDATIONS FOR AND OBJECTIVES OF THE PROPOSAL

The legal framework for a European Research Infrastructure is designed to facilitate the joint establishment and operation of research facilities of European interest between several Member States and countries associated to the Community R&D Framework Programme. It is being developed in response to requests from the Member States and the scientific community, because the available national and international legal forms are not fully adequate.

#### GENERAL CONTEXT

Since the EU Commission published its Communication "Towards a European Research Area" in January 2000, the idea of a common European Research Area (ERA) has been the guiding principle for all Community R&D measures and a central pillar in attaining the research goals of the Lisbon Strategy. The 2007 ERA Green Paper "The European Research Area: New Perspectives" identified a number of key areas where effective action through partnerships between Member States would have the potential to deliver significant gains for Europe's research system and help to create a "fifth freedom" - the free movement of knowledge - in Europe.

In this context, one of the pillars of the ambitious ERA concept that was put forward concerns "Developing world class research infrastructures", which in turn provides

growth, jobs and the basis for a dynamic and knowledge-based European economy.

Research infrastructures are playing an increasing role in the advancement of knowledge and technology. For example, observatories for environmental sciences, data banks in genomics and data bases in social science, imaging systems or clean rooms for nano-electronics, irradiation facilities for materials research or super-computers, are essential tools for knowledge development. By offering unique research services, by attracting young people to science and through networking of facilities, research infrastructures help in structuring the scientific community and therefore play a key role in the construction of an efficient research and innovation environment. Because of their ability to assemble a 'critical mass' of people and investment, they contribute to national, regional and European economic development. They are therefore at the core of the "knowledge triangle" of research, education and innovation.

As the frontiers of research evolve and advance, and as our technologies progress, research infrastructures are becoming increasingly complex and more expensive, often placing them beyond the reach of a single research group, region, nation or even continent. This was recognised by the Competitiveness Councils of 1-3 July 2004 and of 25-26 November 2004 when the Council agreed that, as part of the further development of the ERA, there was a need for the reinforcement of competitive research, prevention of fragmentation, and cooperation in the field of research infrastructures. The Council emphasized the necessity of developing a European strategy in the field of research infrastructures and mandated ESFRI, - the European Strategy Forum for Research Infrastructure-, to develop a strategic roadmap for Europe for the next generation of research infrastructures.

The Competitiveness Council of 30 May 2008 reiterated the need to develop research infrastructures at European level, on the basis of, among other things, an efficient coordination and an appropriate legal framework. In October 2006, ESFRI released the first ever European Roadmap for Research Infrastructures containing 35 key projects of European interest to be developed in the next 10-20 years. The challenge now is the implementation of these projects.

However, a major difficulty for setting up new European research infrastructures, apart from scarcity of resources and the complexity of technical and organisational issues, is the lack of an adequate legal framework allowing the creation of appropriate partnership with partners from different countries.

### **EXISTING PROVISIONS IN THE AREA OF THE PROPOSAL**

Recent work carried out under the auspices of ESFRI has recognised that existing legal forms under national law (e.g. the French *société civile*, the German *Gesellschaft mit beschränkter Haftung* (GmbH), the UK limited liability company (Ltd) or the Dutch *stichting* (foundation)) do not fulfil the needs of these new research infrastructures. The analysis is similar for existing legal forms under international or Community law (e.g. international/intergovernmental organisations, European Economic Interest Groupings). ESFRI thus identified a need to develop a dedicated Community legal framework for setting-up European research infrastructures involving several Member States.

The proposed legislation is therefore designed to facilitate the joint establishment and operation of research facilities of European interest among several Member and countries associated to the Community R&D Framework Programme, and to help develop further the European policy for research infrastructures. This should complement the advances already achieved since 2004, in particular through ESFRI. A wide-ranging consultation has been carried out to prepare this initiative, including analysis conducted by experts and consultation of stakeholders.

### **CONSISTENCY WITH THE OTHER POLICIES AND OBJECTIVES OF THE UNION**

The rapid setting-up of new European research infrastructures - as identified for example by ESFRI - would enable an easier and quicker achievement of the horizontal objectives of the European Union:

**Growth and Jobs:** The construction, operation and maintenance of such facilities create important supply and demand effects. For example, the generation of today's CCD cameras (consumer products), or the use of specific software for ophthalmological examinations have their roots in the technological developments done in the last twenty years in the large optical astronomy observatories;

**"Sustainable Europe":** European research infrastructures help to better understand our environment or to develop new approaches to energy. As identified by the Energy Council of 28 February 2008, research infrastructures help to improve and enlarge the Community's knowledge base of researchers and research institutes. They reduce barriers to mobility, attract world-class human capital, and improve science education in the field of renewable energy technologies (SET plan);

**"Knowledge Society":** European research infrastructures are key for the efficient access to world-level scientific knowledge by large communities of researchers and users. It should be remembered that the Internet was born in CERN many years ago. Today, millions of kilometres of optic fibres link the different scientific centres of competences, research centres and universities, as the backbone of an efficient, quick and reliable scientific communication and information system.

**Europe as a world partner:** The rapid development of European research infrastructures will significantly affect the attractiveness of the European Research Area. Already Australia, India, Russia and the USA have shown considerable interest in a participation in the development of the projects identified by ESFRI.

**Better regulation (and simplification):** Finally, through an optimisation of the legal framework at European level, the Council could allow a quicker and efficient process for the

management of the different files related to the setting-up of new European research facilities using a single legal base instead of several national ones.

The regulation is complementary to other Community initiatives developed in the context of ERA, such as the Communication on Joint Programming in Research<sup>1</sup>. It also complements the European Institute of Innovation and Technology (EIT), which will create Knowledge and Innovation Communities (KICs) bringing together the best resources from higher education, research and business players in partnerships.

## 2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

### CONSULTATION OF INTERESTED PARTIES AND USE OF EXPERTISE

In the preparation of this proposal, the Commission took into account the views expressed by many stakeholders. ESFRI organised, in collaboration with DG Research, two workshops with key stakeholders in 2006. The two workshops showed the limitations of the existing legal forms at national, Community or international levels for European research infrastructures.

A feasibility study on the creation of a European legal instrument for European research infrastructures was carried out in 2007 by a group of legal experts. The group concluded that a solution could be an EC Regulation based on Article 171 of the EC Treaty.

A Stakeholders Meeting was organised on 3 March 2008. Participants included representatives of the projects in the ESFRI roadmap, representatives of European research facilities and legal experts with in-depth knowledge of the subject.

A vast majority of experts agreed on the usefulness of a new legal form at Community level and on the broad orientation of the project of the Commission.

The Commission also set up and consulted an advisory expert group (Sounding Board) in 2008. The Sounding Board showed strong support to the option of developing a new Community legal instrument for European research infrastructures. In their view, such a legal instrument, complementing other existing legal forms, would facilitate and speed up the decision making process for new infrastructures.

### IMPACT ASSESSMENT

This proposal for a Council Regulation has been subject to a Commission Impact Assessment which compared the potential impact of the proposed framework regulation with the alternatives, including the 'Business as Usual' situation and 3 other:

Option 1: The "no specific EU action" option corresponds to the present situation, where, each consortium, through an ad hoc process, tries to identify among existing legal forms the one which could be the most appropriate for their project;

Option 2 corresponds to a "light" form of intervention from the European Commission, helping those involved in building European infrastructures to identify problems and needs, to exchange information about how to tackle these problems and to establish best practices.

Option 3 corresponds to the setting-up of Joint Undertakings by the Community, according to Article 171 of the EC-Treaty, on a case by case basis, every time that such a need occurs;

Option 4 is a more direct response to the problem at hand. It proposes a legislative action to provide a new legal instrument adapted to the needs of European research infrastructures, complementing existing forms at national and European level; it also considers the empowerment by the legislator of the European Commission to confer the "European Research Infrastructure" status.

A comparative assessment of the different policy options clearly identifies Option 4 as the most effective and efficient way to achieve the policy objectives of the proposal. In particular the proposed framework regulation has clear advantages

<sup>1</sup> COM (2008) 468, of 1/5.7.2008.

over other alternatives. It would provide an easier, faster and more cost-efficient process of setting-up new European research infrastructures. It would provide all the features that a legal form should have for European research infrastructures. It would thus increase the number of European research infrastructures and contribute to the achievement of socio-economic, environmental and societal impacts.

It would also contribute to further development of a European policy for research infrastructures. Ultimately the proposed framework regulation would increase the attractiveness of the European Union at international level as a place to do research through the reinforcement of the ERA.

However, Member States in setting-up new research infrastructures of European dimension could also use relevant existing international, national or European legal forms (for instance the EGCT and the EEIG).

### 3. LEGAL ELEMENTS OF THE PROPOSAL

#### SUMMARY OF THE PROPOSED ACTION

Complementing national or inter-governmental schemes, the proposed framework regulation will provide a common legal framework based on Article 171 EC Treaty. It will set out the main characteristics of European Research Infrastructures (ERIs), as well as clear procedures by which this status will be conferred by the legislator.

An ERI is a legal entity with legal personality and full legal capacity recognised in all Member States. It is based on membership: its members (Member States, third countries and intergovernmental organisations) jointly contribute to the achievement of the objectives of an ERI, primarily the establishment and operation of a research infrastructure of European importance. Its internal structure is very flexible, allowing the members to define, in the Statutes, their member rights and obligations, the organs and their competences and other internal arrangements. The liability of the members for the debts of the ERI will in principle be limited to their respective contributions;

flexibility will however be allowed in the statutes to modify such arrangements. The applicable law is Community law, the law of the State of the statutory seat or of the State of operation regarding certain safety and technical matters. The Statutes and their implementing rules must comply with such applicable law. The ERI shall also be considered as an international body or organisation in the sense of the directives on value-added tax, on excise duties and on public procurement; it shall be thus exempted from VAT and excise duties and its procurement procedures shall be out of the scope of the directive on public procurement.

An ERI shall be set up, in conformity with the legal basis of Article 171 EC Treaty, by a decision of the Commission acting on the basis of implementing powers conferred by the Council (Article 202 EC Treaty). The Commission shall act upon an application submitted by those who wish to become founding members of the ERI. The decision setting up the ERI shall be taken following the advisory procedure. This procedure should stimulate the setting-up of structures necessary for the efficient execution of European research, including those supported by the research, technological development and demonstration Community programmes. It would also allow a quicker process than if individual decisions were taken by the Council, simplifying the complex process of development of international research infrastructures, and avoiding uncoordinated activities.

The European Commission will ensure the overall management of the new legal framework and monitoring of compliance of the ERIs with the Regulation. Five years after its adoption, the Commission shall carry out, through a panel of experts, an evaluation of this legal framework and shall report it to the European Parliament and the Council.

#### LEGAL BASIS

The legal basis of the proposal is Article 171 of the Treaty establishing the European Community.

#### SUBSIDIARITY PRINCIPLE

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

In order for Community action to be justified, it is necessary for the subsidiarity principle to be respected. This involves assessing two aspects. Firstly, it is important to be sure that the objectives of the proposed action could not be achieved sufficiently by Member States in the framework of their national constitutional system (necessity test). Three options are proposed to tackle the identified problem, i.e. that no appropriate legal framework for European Research Infrastructures exists: (1) Coordination action at European level for the development of best practices; (2) Development of Joint Undertakings and (3) Development of a dedicated legal framework at Community level. The Community is best placed to implement these options, on the basis of Article 165 for the first one, and through Article 171 for the two others.

The second aspect to consider is whether and how the objectives could be better achieved by action on the part of the Community (test of European value-added). The rationale for a European action stems from the trans-national nature of the problem (setting-up of legal frameworks between Member States). Alternative solutions exist through the setting up of inter-governmental agreements, however the administrative and legal processes which typically have to be followed under such intergovernmental schemes are considered as too lengthy, difficult and cumbersome.

The proposal therefore complies with the subsidiarity principle.

### **PROPORTIONALITY PRINCIPLE**

The draft Regulation is very short and leaves most of the internal arrangements for the planned infrastructure up to the members of the European Research Infrastructure, i.e. Member States, third States and intergovernmental organisations.

The applicable law will be mostly the national law of the country of statutory seat or of operation.

The amount of information that the ERI and its members have to present to the Commission is kept to the minimum necessary so as to allow the Commission to examine its compliance with the framework regulation.

For these reasons, the proposal complies with the proportionality principle.

### **CHOICE OF INSTRUMENTS**

The framework that will be generally applicable to a potentially large number of legal entities, the ERIs, which are set up under Article 171 EC Treaty as legal basis, requires a regulation.

## **4. BUDGETARY IMPLICATION**

The proposed regulation will facilitate the joint establishment and operation of European research facilities among several Member States and Associated States. This is an activity additional to the implementation of the research infrastructures action foreseen in the legal base for the 7th Framework Programme for Research.

## **5. ADDITIONAL INFORMATION**

### **SIMPLIFICATION**

The proposal provides for simplification of administrative procedures for public authorities (Community and national).

Through an optimisation of the legal framework at European level, the Council could allow a quicker and more efficient process for the management of the different files related with the setting-up of new European research facilities using a single legal base instead of several national ones.



## PROPOSAL FOR A COUNCIL REGULATION ON THE COMMUNITY LEGAL FRAMEWORK FOR A EUROPEAN RESEARCH INFRASTRUCTURE (ERI)

### THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission<sup>2</sup>,

Having regard to the opinion of the European Parliament<sup>3</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>4</sup>,

Whereas:

1. Pursuant to Article 171 of the Treaty the Community may set up joint undertakings or any other structure necessary for the efficient execution of Community research, technological development and demonstration programmes.
2. The support and development of research infrastructures in Europe has been an ongoing objective of the Community, as last reflected in Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013)<sup>5</sup> and in particular in Council Decision No 2006/974/EC of 19 December 2006 on the specific programme “Capacities”<sup>6</sup>.
3. While traditional support for the use and development of European research infrastructures has essentially taken the form of grants in favour of established research infrastructures in the Member States, the need for additional efforts has become apparent in recent years in order to stimulate the development of new structures by creating an appropriate legal framework which should facilitate their establishment and operation at the level of the Community.
4. This need has been expressed on numerous occasions both at political level by the Member States and the Community institutions, as well as by the various actors within the European research community such as undertakings, research centres and universities.
5. While the central role of world-class scientific research infrastructures for the attainment of the Community’s RTD objectives set out in Title XVIII of Part Three of the Treaty has thus long been recognised under Community RTD Framework Programmes, the rules governing establishment, financing and operation of these structures are still fragmented and regionalised. Considering that European research infrastructures are in competition with those of the Community’s global partners which are and will be strongly investing in modern large-scale research infrastructures, and that these infrastructures are becoming increasingly complex and expensive, often placing them beyond the reach of a single Member State or even continent, it is now necessary to exploit and develop the full potential of Article 171 of the Treaty by establishing a framework containing the procedures and conditions for the setting-up and operation of European Research Infrastructures at Community level which are necessary for the efficient execution of the Community’s RTD programmes. This new legal framework would complement other, less specialised, legal forms existing under national, international or Community law (such as the European Economic Interest Grouping (EEIG) or the European Grouping for Territorial Cooperation (EGCT)).
6. The term research infrastructure refers to facilities, resources and related services that are used by the scientific community to conduct top-level research in their respective fields. This definition covers: major scientific equipment or sets of instruments; knowledge-based resources such as collections, archives or structured scientific information; enabling

<sup>2</sup> OJ C , , p.

<sup>3</sup> OJ C , , p.

<sup>4</sup> OJ C , , p.

<sup>5</sup> OJ L 412 of 30 December 2006, p. 1.

<sup>6</sup> OJ L 54 of 22.2. 2007, p. 101.

ICT-based infrastructures such as Grid, computing, software and communications; any other entity of a unique nature essential to achieve excellence in research. Such research infrastructures may be “single-sited” or “distributed” (an organised network of resources).

7. In contrast to Joint Technology Initiatives (JTI) constituted as Joint Undertakings of which the Community is a member and to which it makes financial contributions, a European Research Infrastructure (hereinafter referred to as “ERI”) should not be conceived as a Community body within the meaning of Article 185 of the Financial Regulation<sup>7</sup>, but as a legal entity of which the Community is not necessarily a member and to which it does not make financial contributions within the meaning of Article 108(2), point (f), of the Financial Regulation.
8. Given the close cooperation between Member States and the Community in programming and implementing their respective research activities in a complementary manner, as set out in Articles 164 and 165 of the Treaty, it should be for interested Member States, on their own or in conjunction with other qualified entities, to define their needs for the establishment of research infrastructures based on their research and technological development activities and on the requirements of the Community. For the same reasons, membership of an ERI should be open for interested Member States with the possible participation of qualified third countries and specialised intergovernmental organisations.
9. A European Research Infrastructure (hereinafter referred to as “ERI”) set up under this Regulation should have as its task the establishment and operation of a research infrastructure. It should do so on a non-economic basis in order to prevent distortions of competition. In order to promote innovation and knowledge and technology transfer, the ERI should be allowed to carry out some limited economic activities on certain conditions. The establishment of research infrastructures as ERIs does not exclude that
- research infrastructures of pan-European interest that have another legal form can equally be recognised as contributing to the implementation of the roadmap developed by the European Strategy Forum for Research Infrastructure (ESFRI) and to the progress of European research. The Commission will ensure that ESFRI members and other interested parties are informed about these alternative legal forms.
10. Research infrastructures should help to safeguard scientific excellence of Community research and the competitiveness of its economy, as based on medium-term to long-term forecasts, through the efficient support of European research activities. To achieve this they should be effectively open to the European research community at large and have the ambition to enhance the European scientific capabilities beyond the current state of the art and thereby contribute to the development of the European Research Area.
11. In order to permit an efficient procedure for the setting-up of an ERI, it is necessary for the entities willing to set up an ERI to submit an application to the Commission which has to assess, with the help of independent experts, whether the proposed research infrastructure is in conformity with this Regulation.
12. For reasons of transparency, the decision of setting up an ERI should be published in the *Official Journal of the European Union*. For the same reasons, an extract from the Statutes, providing their essential elements, should be annexed to that decision.
13. In order to carry out its tasks in the most efficient way, the ERI should have legal personality and most extensive legal capacity as from the day on which the decision setting it up takes effect. It should have a statutory seat, in order to determine the applicable law, on the territory of a member of an ERI which is a Member State or a country associated to a Community framework programme for research, technological development and demonstration.

<sup>7</sup> OJ L 248 of 16.9.2002, p. 1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 ( OJ L 390 of 30.12.2006, p.1).

14. Membership of an ERI must comprise at least three Member States and may include qualified third countries and specialised intergovernmental organisations. Therefore, an ERI should qualify as an international body or organisation for the purpose of the application of the Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<sup>8</sup>, Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products<sup>9</sup> and Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts<sup>10</sup>, in conformity with State aid rules. In order to support more effectively the research activities of the ERI, Member States and participating third countries should take all possible measures to accord to such ERI the most extensive exemption from other taxes.
15. In line with the Community dimension of this legal instrument, Member States should jointly hold the majority of votes in the assembly of members of an ERI.
16. For the implementation of this framework, more detailed provisions should be laid down in Statutes, on the basis of which the Commission should examine the compliance of an application with the framework established in this Regulation.
17. It is necessary to ensure that, on the one hand, an ERI has flexibility to amend its Statutes and, on the other hand, that the Community which sets up the ERI retains control over certain essential elements. If an amendment concerns a matter covered in the extract from the Statutes annexed to the decision setting up the ERI, such amendment has to be approved, prior to taking effect, by a Commission decision taken following the same procedure as the one for setting up the ERI, since the information contained therein is considered as essential. Any other amendment should be notified to the Commission which has an opportunity to object if it considers it contrary to this Regulation. If no objection is raised, an appropriate notice accompanied by a concise summary of the amendment should be published.
18. It is necessary for an ERI to equip itself with its own bodies for the effective management of its activities. The Statutes should determine the manner in which these bodies legally represent the ERI.
19. It is necessary for the ERI to carry out its activities according to sound budgetary principles for the exercise of its financial responsibility.
20. ERIs may receive co-funding from Cohesion Policy financial instruments in conformity with Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999<sup>11</sup>.
21. In order to carry out its tasks in the most efficient way and as a logical consequence of its legal personality, an ERI should be liable for its debts. In order to allow the members to find appropriate solutions regarding their liability, the option should be given to provide in the Statutes for different liability regimes going above the liability limited to the contributions of the members.
22. As the ERI is established under Community law, it should be governed by Community law, next to the law of the country where it has its statutory seat. However, the ERI could have a place of operation in another country. In that case, the law of that country should apply as regards public and occupational health and safety, environmental protection, treatment of hazardous substances and issuance of permits required. Further, an ERI should be governed by its Statutes adopted in compliance with the

<sup>8</sup> OJ L 347, 11.12.2006, p. 1. Directive as last amended by VAT Council Directive 2008/8/EC of 12 February 2008 (OJ L 44, 20.2.2008, p. 11).

<sup>9</sup> OJ L 76, 23.3.1992, p. 1. Directive as last amended by Council Directive 2004/106/EC of 16 November 2004 (OJ L 359, 4.12.2004, p. 30).

<sup>10</sup> OJ L 134, 30.4.2004, p. 114. Directive as last amended by Commission Regulation (EC) No 213/2008 of 28 November 2007 (OJ L 74, 15.3.2008, p. 1 ).

<sup>11</sup> OJ L 210 of 31.7.2006, p.25.

preceding sources of law, and by implementing rules complying with the Statutes.

23. In order to ensure sufficient control of compliance with this Regulation, an ERI should submit to the Commission the annual report of the ERI and any information about circumstances threatening to seriously jeopardise the achievement of the tasks of the ERI. If the Commission obtains indications, through the annual report or otherwise, that the ERI acts in serious breach of this Regulation or other applicable law, it shall request explanations and/or actions from the ERI and/or its members. In extreme cases and if no remedial action is taken, the Commission may repeal the decision setting up the ERI; this will trigger the winding up of the ERI.
24. Since the objectives of the action to be taken; i.e. the establishment of a framework for European Research Infrastructures between Member States, cannot be sufficiently achieved by the Member States in the framework of their national constitutional systems, therefore, by reason of the trans-national nature of the problem, these objectives can better be achieved at Community level. The Community may therefore adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
25. The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedure for the exercise of implementing powers conferred on the Commission.<sup>12</sup>

HAS ADOPTED THIS REGULATION:

### **Article 1**

#### **Subject-matter and scope**

1. This Regulation establishes a framework laying down the requirements and procedures for and the effects of setting up a European Research Infrastructure (hereinafter referred to as "ERI").
2. It shall apply to research infrastructures of pan-European interest.

### **Article 2**

#### **Task and other activities**

1. The task of an ERI shall be to establish and operate a research infrastructure.
2. An ERI shall pursue its task on a non-economic basis. However, it may carry out limited economic activities closely related to its task provided that they do not jeopardise the achievement of that task.
3. The ERI shall record costs and revenues of its economic activities separately and shall charge market prices for them, or, if these cannot be ascertained, full costs plus a reasonable margin.

### **Article 3**

#### **Requirements relating to infrastructure**

The research infrastructure to be established by an ERI shall meet the following requirements:

- a) it is necessary for the carrying out of European research activities and in particular for the efficient execution of Community research, technological development and demonstration programmes;
- b) it represents an added value in the development of the European Research Area and a significant improvement in the relevant scientific and technological fields at international level;

<sup>12</sup> OJ L 184, 17.7.1999, p.23.

- c) the European research community, composed of researchers from Member States and from countries associated to the Community research, technological development and demonstration programmes can effectively have access to it; and
- d) it contributes to the dissemination and optimisation of the results of activities in Community research, technological development and demonstration.

#### Article 4

##### Application for the setting-up of an ERI

1. The entities applying for the setting up of an ERI (hereinafter referred to as “applicants”) shall submit an application to the Commission. The application shall be submitted in writing in one of the official languages of the Community and shall contain the following:
  - a) a request to the Commission to set up the ERI;
  - b) the proposed Statutes of the ERI referred to in Article 9;
  - c) a technical and scientific description of the research infrastructure to be established and operated by the ERI, addressing in particular the requirements set out in Article 3.
  - d) an extract from the Statutes which contains the information listed in the Annex.
2. The Commission shall assess the application. During the assessment it may obtain the views of independent experts in particular in the field of the intended activities of the ERI. The result of such assessment shall be communicated to the applicants who shall be, if necessary, invited to complete or amend the application within a reasonable time.

#### Article 5

##### Decision on the application

1. The Commission shall, taking into account the results of the assessment referred to in Article 4(2) and in accordance with the procedure referred to in Article 21:
  - a) adopt a decision setting up the ERI after it has satisfied itself that the requirements laid down in this Regulation are met; or
  - b) reject the application if it concludes that the requirements laid down in this Regulation are not met.
2. The decision on the application shall be notified to the applicants. The decision setting up the ERI shall also be published in the L series of *the Official Journal of the European Union*.
3. The extract from the Statutes contained in the application shall be annexed to the decision setting up the ERI.

#### Article 6

##### Status of an ERI

1. An ERI shall have legal personality as from the date on which the decision setting up the ERI takes effect.
2. An ERI shall have in each Member State the most extensive legal capacity accorded to legal entities under the law of that Member State. It may, in particular, acquire, own and dispose of movable, immovable and intellectual property, conclude contracts and be a party to legal proceedings.
3. The ERI is an international body within the meaning of Article 151(1)(b) of Directive 2006/112/EC, and an international organisation within the meaning of the second indent of Article 23(1) of Directive 92/12/EEC and of Article 15, point (c), of Directive 2004/18/EC.

4. Member States shall take all possible measures to accord the ERI the most extensive exemption from taxes further to those referred to in paragraph 3, in conformity with State aid rules.

#### **Article 7**

##### **Seat and name**

1. An ERI shall have a statutory seat, which shall be located on the territory of a member which shall be a Member State or a country associated to a Community research, technological development and demonstration programme.
2. An ERI shall have a name containing the words “European Research Infrastructure” or the abbreviation “ERI”.

#### **Article 8**

##### **Membership**

1. The following entities may become members of an ERI:
  - a) Member States;
  - b) third countries;
  - c) inter-governmental organisations.
2. An ERI must at all times have at least three Member States as members. Further Member States may join as members at any time on fair and reasonable terms specified in the Statutes.
3. Member States shall jointly hold the majority of the voting rights in the assembly of members referred to in Article 12 (a).
4. Any Member State or third country may be represented by one or more public entities, including regions, or private entities with a public-service mission

as regards the exercise of specified rights and the discharge of specified obligations as a member of the ERI.

5. Third countries and intergovernmental organisations applying for a membership of an ERI shall recognise that that ERI shall have legal personality and capacity in accordance with Article 6(1) and (2) and that it shall be subject to rules determined in application of Article 16.
6. Third countries applying for a membership of an ERI shall accord to such ERI a treatment equivalent to that referred to in Article 6(3) and (4).

#### **Article 9**

##### **Statutes**

The Statutes shall contain at least the following:

- a) a list of members, and where applicable, of entities representing them and the conditions of and procedure for changes in membership and representation in compliance with Article 8;
- b) tasks and activities of the ERI;
- c) statutory seat in compliance with Article 7(1);
- d) name of the ERI in compliance with Article 7(2);
- e) rights and obligations of the members, including the obligation to make contributions to a balanced budget;
- f) bodies of the ERI, their competencies and the manner in which they are constituted and in which they decide, including upon the amendment of the Statutes, in compliance with Articles 10, 11 and 12;
- g) duration, and the procedure for the winding-up in compliance with Article 17;

- h) basic principles covering:
  - (i) access policy for users;
  - (ii) data policy;
  - (iii) scientific evaluation policy;
  - (iv) intellectual property rights policy;
  - (v) dissemination policy;
  - (vi) employment policy;
  - (vii) procurement policy respecting the principles of transparency, non-discrimination and competition;
  - (viii) decommissioning, if relevant;
- i) identification of the working language(s);
- j) references to rules implementing the Statutes.

The Statutes shall be publicly available on the website of the ERI and at its statutory seat.

#### Article 10

##### Amendments of the Statutes requiring an amendment of the extract from the Statutes

1. Any amendment of the Statutes which requires an amendment of the extract from the Statutes shall be submitted to the Commission by the ERI for approval. Such amendment shall not take effect before the decision granting approval has come into force. The Commission shall apply, *mutatis mutandis*, Articles 4(2) and 5.
2. The application for the amendment shall contain the following:
  - a) the text of the amendment as proposed, including the date on which it enters into force;
  - b) the amended consolidated version of the Statutes;
  - c) the amended extract from the Statutes.

#### Article 11

##### Other amendments of the Statutes

1. Any amendment of the Statutes other than that referred to in Article 10 shall be submitted to the Commission by the ERI within ten days after its adoption.
2. The Commission may raise an objection to such amendment within sixty days from submission giving reasons why the amendment does not meet the requirements of this Regulation.
3. If no objections are raised, the Commission shall publish a notice of the amendment accompanied by the concise summary of the amendment in the C series of the *Official Journal of the European Union*.
4. The amendment shall not take effect before the period for objecting has expired or has been waived by the Commission or before an objection raised has been lifted.
5. The application for the amendment shall contain the following:
  - a) the text of the amendment as adopted, including the date on which it enters into force;
  - b) the amended consolidated version of the Statutes;
  - c) the concise summary of the amendment.

#### Article 12

##### Organisation of the ERI

The Statutes shall provide for at least the following bodies having the following competencies:

- a) an assembly of members as the body having full decision-making competency, including the adoption of the budget;

- b) a director or a board of directors, appointed by the assembly of members, as the executive body and legal representative of the ERI.

The Statutes shall specify the manner in which the members of the board of directors legally represent the ERI.

#### **Article 13**

##### **Budgetary principles, accounts, audit and insurance**

1. All items of revenue and expenditure of an ERI shall be included in estimates to be drawn up for each financial year and shall be shown in the budget. The revenue and expenditure shown in the budget shall be in balance.
2. The members of an ERI shall ensure that the appropriations are used in accordance with the principles of sound financial management.
3. The budget shall be established and implemented and the accounts presented in compliance with the principle of transparency.
4. The accounts of an ERI shall be accompanied by a report on budgetary and financial management of the financial year.
5. An ERI shall be subject to the requirements of the applicable law as regards preparation, filing, auditing and publication of accounts.
6. An ERI shall take out appropriate insurance to cover all risks specific to its operation.

#### **Article 14**

##### **Community funding**

Community funding to an ERI may be awarded solely in accordance with Title VI of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial

Regulation applicable to the general budget of the European Communities. Funding under Cohesion Policy shall also be possible, in conformity with the relevant Community legislation.

#### **Article 15**

##### **Liability**

1. An ERI shall be liable for its debts.
2. The financial liability of the members for the debts of the ERI shall be limited to their respective contributions provided to the ERI. The members may specify in the Statutes that they will assume a fixed liability above their respective contributions or unlimited liability.
3. The Community shall not be liable for any debt of the ERI.

#### **Article 16**

##### **Applicable law and jurisdiction**

1. An ERI shall be governed:
  - a) by Community law, in particular this Regulation and the decisions referred to in Articles 5(1)(a) and 10(1);
  - b) by the law of the State, where the ERI has its statutory seat in the case of matters not, or only partly, regulated by acts referred to in point (a);
  - c) by its Statutes, adopted in conformity with the sources of law referred to in points (a) and (b);
  - d) by its implementing rules complying with its Statutes;
  - e) In derogation from point (b), an ERI shall be governed by the law of the States in which the ERI operates as regards



- (i) public and occupational health and safety;
  - (ii) environmental protection;
  - (iii) treatment of hazardous substances;
  - (iv) issuance of permits required for its operation.
2. The Court of Justice of the European Communities shall have jurisdiction over litigation among the members, between the members and the ERI and over any litigation where the Community is a party.
  3. Community legislation on jurisdiction shall apply to disputes between an ERI and third parties. In cases not covered by such Community legislation, the law of the State, where the ERI has its statutory seat shall determine the competent jurisdiction for the resolution of such disputes.

#### **Article 17**

##### **Winding-up, insolvency**

1. The Statutes shall determine the procedure to be applied in the case of winding-up of the ERI following a decision of the assembly of members.
2. Without undue delay after the adoption of the decision by the assembly of members to wind up, and in any event within ten days after such adoption, the ERI shall notify the Commission thereof. The Commission shall publish an appropriate notice in the C series of the *Official Journal of the European Union*.
3. Without undue delay after the closure of the winding-up procedure, and in any event within ten days after such closure, the ERI shall notify the Commission thereof. The Commission shall publish an appropriate notice in the C series of the *Official Journal of the European Union*. The ERI shall cease to exist on the day of publication of the notice.
4. At any time, in the event that the ERI is unable to pay its debts, it shall immediately notify the Commission thereof. The Commission shall publish an appropriate notice in the C series of the *Official Journal of the European Union*.

#### **Article 18**

##### **Reporting and control**

1. An ERI shall produce an annual activity report and submit it to the Commission within six months from the end of the corresponding financial year. This report shall be made publicly available.
2. An ERI and the Member States concerned shall inform the Commission of any circumstances which threaten to seriously jeopardise the achievement of the task of the ERI.
3. Where the Commission obtains indications that an ERI is acting in serious breach of this Regulation, the decisions adopted on the basis thereof or other applicable law, it shall request explanations from the ERI and/or its members.
4. If the Commission concludes, after having given the ERI and/or its members a reasonable time to provide their observations, that such ERI is acting in serious breach of this Regulation, the decisions adopted on the basis thereof or other applicable law, it may propose remedial action to the ERI and its members.
5. If no remedial action is taken, the Commission may repeal the decision establishing the ERI. Such decision shall be notified to the ERI and be published in the L series of the *Official Journal of the European Union*. This shall trigger the winding-up of the ERI.

#### **Article 19**

##### **Appropriate provisions**

Member States shall make such provisions as are appropriate to ensure the effective application of this Regulation.

## ANNEX EXTRACT FROM THE STATUTES

### Article 20 Report and Review

Five years from the entry into force of this Regulation, the Commission shall forward to the European Parliament and the Council a report on its application and proposals for amendments, where appropriate.

### Article 21 Committee procedure

1. The Commission shall be assisted by an advisory committee.
2. Where reference is made to this Article, Articles 3 and 7 of Decision 1999/468/EC shall apply.

### Article 22 Entry into force

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

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

1. Name of the ERI (Articles 7(2) and 9, letter (d)): [name according to the Statutes, including the words “European Research Infrastructure” or the abbreviation “ERI”]
2. Task (Articles 2(1) and 9, letter (b)): [task according to the Statutes consisting in the establishment and operation of a research infrastructure]
3. Statutory seat (Articles 7(1) and 9, letter (c)): [reference preferably to the smallest administrative or self-governing territorial unit, such as a commune]
4. Duration (Article 9, letter (g)): [e.g. “indeterminate”, or a final date or number of years from setting-up]
5. Basic principles of access policy for users (Article 9, letter (h), first indent): [according to the Statutes]
6. Basic principles of scientific evaluation policy (Article 9, letter (h), third indent): [according to the Statutes]
7. Basic principles of dissemination policy (Article 9, letter (h), fifth indent): [according to the Statutes]
8. Basic principles of employment policy (Article 9, letter (h), sixth indent): [according to the Statutes]
9. Basic principles of procurement policy respecting the principles of transparency, non-discrimination and competition (Article 9, letter (h), seventh indent): [according to the Statutes]
10. Liability regime (Article 15(2)): [according to the Statutes and/or first sentence of Article 15(2)]

# EUROPEAN RESEARCH INFRASTRUCTURES AND THEIR REGIONAL DIMENSION

## Council Conclusions

10220/08

30 May 2008

RECALLING the decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013)<sup>1</sup>; Council Decision on the “Capacities” Specific Programme<sup>2</sup> of 19 December 2006; Council conclusions on “Research infrastructures in the European Research Area”<sup>3</sup> of 22 May 2007; Council conclusions on the “Future of Science and Technology in Europe”<sup>4</sup> of 23 November 2007; the Key Issues Paper of the Competitiveness Council to the Spring 2008 European Council<sup>5</sup>; and the Commission communication “Competitive European regions through Research and Innovation” of 16 August 2007;<sup>6</sup>

RECALLING the European Council held on 13 and 14 March 2008, which concluded that efforts towards improving the framework conditions for innovation should be better coordinated, including through improved science-industry linkages and world-class innovation clusters and development of regional clusters and networks, urging the Member States and the Community to make swift progress on priority actions including the strengthening of research infrastructure of pan-European interest, scientific e-infrastructure and launching a new generation of world-class research facilities;

RECALLING the guidelines document and its recommendations for a better coordinated use of the Research Framework programme and the Structural Funds to support R&D adopted by CREST on 7 May 2007<sup>7</sup> and subsequent Council conclusions on “More efficient support to research and innovation: Coordinating the use of the Research Framework Programme and the Structural Funds”<sup>8</sup> of 25 June 2007;

HIGHLIGHTING the importance of new models and best practices of research infrastructure funding such as those presented at the conference “Research Infrastructures and their Structuring Dimension within the European Research Area” in March 2008 in Brdo, Slovenia, which can result in increased funding of research infrastructures and optimisation of the use of available funds.

The Council

1. EMPHASISES that excellent research infrastructures play a key role in the development of the European Research Area (ERA) by promoting excellence in science, enabling globally competitive basic and applied research, and furthermore:
  - contribute to **dynamic and sustainable regional development, economic growth and social benefits** by strengthening the existing research and educational capacity, also in terms of human resources by attracting best and new researchers as well as attracting European researchers to reintegrate after employment abroad;
  - act as catalysts for innovation and collaboration and for the achievement of knowledge growth as set out in the Lisbon strategy, and can be attractive for **high-tech companies** as they strengthen the **innovative potential** in regions;
  - are important for combining internal and external sources of knowledge promoting **open innovation** which creates value and contributes to the development of **innovative products and services**.

1 OJ L 412, 30.12.2006, pp. 1-41.

2 OJ L 54, 22.2.2007, pp. 101-125.

3 Doc. 10055/1/07.

4 Doc. 14693/07.

5 Doc. 6933/08.

6 Doc. 12511/07.

7 Doc. 1203/07.

8 Doc. 11262/07.

2. ACKNOWLEDGES a clear and strong commitment of the Commission and Member States to further develop research infrastructures on the basis of, inter alia, the (updated) **ESFRI roadmap and national roadmaps and/or programmes** and appropriate legal framework, in a coordinated manner.
3. EMPHASISES the essential role of e-infrastructures as an integrating mechanism between Member States, regions as well as different scientific disciplines, also contributing to overcoming digital divides.
4. RECOGNISES the need to increase the investment in research infrastructures and the need to combine in the most efficient way all available public and private resources (Member States, industry, EIB, Structural Funds, FP7, CIP etc.) to reinforce research infrastructures; therefore WELCOMES the preparation by the Commission of “A practical guide to EU funding opportunities for research, development and innovation: Synergies in funding between the 7th Framework Programme for Research, Competitiveness & Innovation programme and Structural Funds” to enable, inter alia, the construction of research infrastructures.
5. CALLS ON the Commission to enhance, as far as possible, the **compatibility of accounting and reporting rules for Community funding** from these programmes in order to further facilitate their combined use for research purposes, as well as to ease their combination with national, regional and local sources of funding; and launch preparatory work with Member States concerning upcoming programmes.
6. RECOGNISES the need for **more synergy** between research, educational and cohesion policies, as well as between support to existing and new facilities, in order to increase opportunities for excellence throughout ERA.
7. CONSIDERS that current efforts at regional, national and European levels for reinforcing research infrastructures of European interest need to be strengthened and further developed; to this effect, **strategic planning and prioritisation**, on the basis of scientific excellence, is essential in creating research and innovation friendly systems and environments; these should be implemented through cross-border, transnational and inter-regional cooperation (not only at EU level) addressing issues of common interest.
8. RECOGNISING that regions are important drivers leading to the development of a knowledge based society and that there is a need for capacity building throughout Europe; hence, that efforts must be continued in a coordinated manner, involving the Commission and Member States, to increase the **capacity of regions** across Europe to access, use, construct and operate modern research infrastructures.
9. INVITES therefore Member States and regions to continue developing, among others, **“regional partner facilities”** as a useful way of capacity building of all regions in Europe resulting in a balanced development of the ERA; and INVITES the Commission to facilitate these efforts with appropriate means.
10. CALLS UPON all stakeholders to discuss the report of the ERA expert group on research infrastructures, presented at the conference in Brdo, highlighting the **vision for the future** and increased role of the Community in further supporting research infrastructures.



## KNOWLEDGE SHARING

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COMMISSION RECOMMENDATION ON THE MANAGEMENT  
OF INTELLECTUAL PROPERTY IN KNOWLEDGE TRANSFER  
ACTIVITIES AND CODE OF PRACTICE FOR UNIVERSITIES AND  
OTHER PUBLIC RESEARCH ORGANISATIONS

Commission Recommendation

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COUNCIL RESOLUTION ON THE MANAGEMENT  
OF INTELLECTUAL PROPERTY IN KNOWLEDGE TRANSFER  
ACTIVITIES AND ON A CODE OF PRACTICE FOR UNIVERSITIES  
AND OTHER PUBLIC RESEARCH ORGANISATIONS  
- "IP CHARTER INITIATIVE"

Council Resolution

# COMMISSION RECOMMENDATION ON THE MANAGEMENT OF INTELLECTUAL PROPERTY IN KNOWLEDGE TRANSFER ACTIVITIES AND CODE OF PRACTICE FOR UNIVERSITIES AND OTHER PUBLIC RESEARCH ORGANISATIONS

## Commission Recommendation

C(2008) 1329

10 April 2008

THE COMMISSION  
OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Community, and in particular Article 165 thereof,

Whereas:

1. When re-launching the Lisbon Strategy in 2005, the Heads of State or Government stressed the key role that better links between public research organisations, including universities, and industry can play in facilitating the circulation and use of ideas in a dynamic knowledge society and in enhancing competitiveness and welfare.
2. An effort should be made to better convert knowledge into socio-economic benefits. Therefore, public research organisations need to disseminate and to more effectively exploit publicly-funded research results with a view to translating them into new products and services. Means to realise this include in particular academia-industry collaborations – collaborative or contract research conducted or funded jointly with the private sector –, licensing and the creation of spin-offs.
3. Effectively exploiting publicly-funded research results depends on the proper management of intellectual property (i.e. knowledge in the broadest sense, encompassing e.g. inventions, software, databases and micro-organisms, whether or not they are protected by legal instruments such as patents), on the development of an entrepreneurial culture and associated skills within public research organisations, as well as on better communication and interaction between the public and private sector.
4. The active engagement of public research organisations in intellectual property management and knowledge transfer is essential for generating socio-economic benefits, and for attracting students, scientists and further research funding.
5. Member States have in recent years taken initiatives to facilitate knowledge transfer at national level, but significant discrepancies between national regulatory frameworks, policies and practices, as well as varying standards in the management of intellectual property within public research organisations, prevent or hamper trans-national knowledge transfer across Europe and the realisation of the European Research Area.
6. Following the 2007 Commission Communication<sup>1</sup>, setting out approaches for a common European framework for knowledge transfer, the European Council therefore invited the Commission, in June 2007, to develop guidance on the management of intellectual property by public research organisations in the form of a Recommendation to Member States.
7. This Recommendation seeks to provide Member States and their regions with policy guidelines for the development or updating of national guidelines and frameworks, and public research organisations with a Code of Practice, in order to improve the way

<sup>1</sup> COM(2007) 182 final.

public research organisations manage intellectual property and knowledge transfer.

8. Collaboration in the field of research and development as well as knowledge transfer activities between the Community and third countries should be based on clear and uniform recommendations and practices that ensure equitable and fair access to intellectual property generated through international research collaborations, to the mutual benefit of all partners involved. The attached Code of Practice should be used as a reference in that context.
  9. A number of good practices have been identified that should help Member States to implement this Recommendation. It is for each Member State to choose the procedures and practices best designed to ensure that the principles of this Recommendation are followed, having regard to what would be most effective in the context of that Member State, since practices that are effective in one Member State may not be as effective in another. Existing guidance provided at Community and OECD level should also be taken into account.
  10. The Commission and the Member States should monitor the implementation of this Recommendation and its impact, and foster the exchange of good practices regarding knowledge transfer.
4. Promote the broad dissemination of knowledge created with public funds, by taking steps to encourage open access to research results, while enabling, where appropriate, the related intellectual property to be protected;
  5. Cooperate and take steps to improve the coherence of their respective ownership regimes as regards intellectual property rights in such a way as to facilitate cross-border collaborations and knowledge transfer in the field of research and development;
  6. Use the principles outlined in this Recommendation as a basis for introducing or adapting national guidelines and legislation concerning the management of intellectual property and knowledge transfer by public research organisations, as well as for concluding agreements concerning research cooperation with third countries, or for any other measures to promote knowledge transfer, or when creating new related policies or funding schemes, while observing State aid rules;
  7. Take steps to ensure the widest possible implementation of the Code of Practice, whether directly or through the rules laid down by national and regional research funding bodies;
  8. Ensure equitable and fair treatment of participants from Member States and third countries in international research projects regarding the ownership of and access to intellectual property rights, to the mutual benefit of all partners involved;
  9. Designate a national contact point, the tasks of which should include the coordination of measures regarding knowledge transfer between public research organisations and the private sector, including tackling trans-national issues, in liaison with similar contact points in other Member States;
  10. Examine and make use of the best practices set out in Annex II, taking into account the national context;
  11. Inform the Commission by 15 July 2010 and every two years thereafter of measures taken on the basis of this Recommendation, as well as their impact.

HEREBY RECOMMENDS  
THAT MEMBER STATES SHOULD:

1. Ensure that all public research organisations define knowledge transfer as a strategic mission;
2. Encourage public research organisations to establish and publicise policies and procedures for the management of intellectual property in line with the Code of Practice set out in Annex I;
3. Support the development of knowledge transfer capacity and skills in public research organisations, as well as measures to raise the awareness and skills of students – in particular in the area of science and technology – regarding intellectual property, knowledge transfer and entrepreneurship;

## ANNEX I

### CODE OF PRACTICE FOR UNIVERSITIES AND OTHER PUBLIC RESEARCH ORGANISATIONS CONCERNING THE MANAGEMENT OF INTELLECTUAL PROPERTY IN KNOWLEDGE TRANSFER ACTIVITIES

This Code of Practice consists of three main sets of principles.

The **principles for an internal intellectual property** (hereinafter “IP”) **policy** constitute the basic set of principles which public research organisations should implement in order to effectively manage the intellectual property resulting from their – own or collaborative – activities in the field of research and development.

The **principles for a knowledge transfer** (hereinafter “KT”) **policy** complement those relating to IP policy by focusing more specifically on the active transfer and exploitation of such intellectual property, regardless of whether or not it is protected by IP rights.

The **principles for collaborative and contract research** are meant to concern all kinds of research activities conducted or funded jointly by a public research organisation and the private sector, including in particular collaborative research (where all parties carry out R&D tasks) and contract research (where R&D is contracted out to a public research organisation by a private company).

#### 1. PRINCIPLES FOR AN INTERNAL INTELLECTUAL PROPERTY POLICY

1. **Develop an IP policy** as part of the long-term strategy and mission of the public research organisation, and publicise it internally and externally, while establishing a single responsible contact point.
2. That policy should provide **clear rules for staff and students** regarding in particular the disclosure of new ideas with potential commercial interest, the ownership of research results, record keeping, the management of conflicts of interest and engagement with third parties.
3. Promote the **identification, exploitation** and, where appropriate, **protection** of intellectual property, in line with the strategy and mission of the public research organisation and with a view to maximising socio-economic benefits. To this end, different strategies may be adopted – possibly differentiated in the respective scientific/technical areas –, for instance the “public domain” approach or the “open innovation” approach.
4. Provide appropriate **incentives** to ensure that all relevant staff play an active role in the implementation of the IP policy. Such incentives should not only be of a financial nature but should also promote career progression, by considering intellectual property and knowledge transfer aspects in appraisal procedures, in addition to academic criteria.
5. Consider the creation of coherent **portfolios** of intellectual property by the public research organisation – e.g. in specific technological areas – and, where appropriate, the setting-up of patent/IP **pools** including intellectual property of other public research organisations. This could ease exploitation, through critical mass and reduced transaction costs for third parties.
6. Raise **awareness** and basic skills regarding intellectual property and knowledge transfer through **training** actions for students as well as research staff, and ensure that the staff responsible for the management of IP/KT have the required skills and receive adequate training.
7. Develop and publicise a **publication/dissemination policy** promoting the broad dissemination of research and development results (e.g. through open access publication), while accepting possible delay where the protection of intellectual property is envisaged, although this should be kept to a minimum.



## 2. PRINCIPLES FOR A KNOWLEDGE TRANSFER POLICY

8. In order to promote the use of publicly-funded research results and maximise their socio-economic impact, consider all types of possible **exploitation mechanisms** (such as licensing or spin-off creation) and all possible **exploitation partners** (such as spin-offs or existing companies, other public research organisations, investors, or innovation support services or agencies), and select the most appropriate ones.
9. While proactive IP/KT policy may generate additional revenues for the public research organisation, this should not be considered the prime objective.
10. Ensure that the public research organisation has access to or possesses **professional knowledge transfer** services including legal, financial, commercial as well as intellectual property protection and enforcement advisors, in addition to staff with technical background.
11. Develop and publicise a **licensing policy**, in order to harmonise practices within the public research organisation and ensure fairness in all deals. In particular, transfers of ownership of intellectual property owned by the public research organisation and the granting of exclusive licences<sup>2</sup> should be carefully assessed, especially with respect to non-European third parties. Licences for exploitation purposes should involve adequate compensation, financial or otherwise.
12. Develop and publicise a **policy for the creation of spin-offs**, allowing and encouraging the public research organisation's staff to engage in the creation of spin-offs where appropriate, and clarifying long-term relations between spin-offs and the public research organisation.

<sup>2</sup> With regard to R&D results having several possible application fields, exclusive licences granted without any limitation to a specific field of use should be avoided. Moreover, as a rule, the PRO should reserve adequate rights to facilitate dissemination and further research.

13. Establish clear principles regarding the **sharing of financial returns** from knowledge transfer revenues between the public research organisation, the department and the inventors.
14. **Monitor** intellectual property protection and knowledge transfer activities and related achievements, and publicise these regularly. The research results of the public research organisation, any related expertise and intellectual property rights should be made more **visible** to the private sector, in order to promote their exploitation.

## 3. PRINCIPLES REGARDING COLLABORATIVE AND CONTRACT RESEARCH<sup>3</sup>

15. The rules governing collaborative and contract research activities should be **compatible with the mission** of each party. They should take into account the level of private funding and be in accordance with the objectives of the research activities, in particular to maximise the commercial and socio-economic impact of the research, to support the public research organisation's objective to attract private research funding, to maintain an intellectual property position that allows further academic and collaborative research, and avoid impeding the dissemination of the R&D results.
16. IP-related issues should be **clarified at management level and as early as possible** in the research project, ideally before it starts. IP-related issues include allocation of the ownership of intellectual property which is generated in the framework of the project (hereinafter "foreground"), identification of the intellectual property which is possessed by the parties before starting the project (hereinafter "background") and which is necessary for project

<sup>3</sup> When a PRO engages in contract or collaborative research with an industrial partner, the Commission will automatically (i.e. without any notification requirement) consider that no indirect State aid is granted to the industrial partner through the PRO if the conditions set out in the *Community Framework for State Aid for R&D&I* (OJ No C323 of 30.12.2006 – in particular points 3.2.1 and 3.2.2 thereof) are fulfilled.

execution or exploitation purposes, access rights<sup>4</sup> to foreground and background for these purposes, and the sharing of revenues.

17. In a collaborative research project, **ownership** of the foreground should stay with the party that has generated it, but can be allocated to the different parties on the basis of a contractual agreement concluded in advance, adequately reflecting the parties' respective interests, tasks and financial or other contributions to the project. In the case of contract research the foreground generated by the public research organisation is owned by the private-sector party. The ownership of background should not be affected by the project.
18. **Access rights**<sup>4</sup> should be clarified by the parties as early as possible in the research project, ideally before it starts. Where necessary for the purpose of conducting the research project, or for the exploitation of foreground of a party, access rights to other parties' foreground and background should be available, under conditions which should adequately reflect the parties' respective interests, tasks, and financial and other contributions to the project.

<sup>4</sup> Access rights refer to rights granted by the parties to each other, as opposed to licences to third parties. They should determine which parties can use which pieces of foreground/background, for research purposes and/or for exploitation purposes, and on what conditions.

## ANNEX II

### IDENTIFIED PRACTICES OF PUBLIC AUTHORITIES THAT FACILITATE THE MANAGEMENT OF INTELLECTUAL PROPERTY IN KNOWLEDGE TRANSFER ACTIVITIES BY UNIVERSITIES AND OTHER PUBLIC RESEARCH ORGANISATIONS

#### KNOWLEDGE TRANSFER AS A STRATEGIC MISSION OF PUBLIC RESEARCH ORGANISATIONS

1. Knowledge transfer between universities and industry is made a permanent political and operational priority for all public research funding bodies within a Member State, at both national and regional level.
2. The subject clearly falls within the responsibility of a ministry, which is charged with coordinating knowledge transfer promotion initiatives with other ministries.
3. Each ministry and regional government body that carries out knowledge transfer activities designates an official responsible for monitoring their impact. They meet regularly in order to exchange information and discuss ways to improve knowledge transfer.

#### POLICIES FOR MANAGING INTELLECTUAL PROPERTY

4. The proper management of intellectual property resulting from public funding is promoted, requiring that it be carried out according to established principles taking into account the legitimate interests of industry (e.g. temporary confidentiality constraints).
5. Research policy promotes reliance on the private sector to help identify technological needs and to foster private investment in research and encourage the exploitation of publicly-funded research results.

#### KNOWLEDGE TRANSFER CAPACITIES AND SKILLS

6. Sufficient resources and incentives are available to public research organisations and their staff to engage in knowledge transfer activities.
7. Measures are taken to ensure the availability and facilitate the recruitment of trained staff (such as technology transfer officers) by public research organisations.
8. A set of model contracts is made available, as well as a decision-making tool helping the most appropriate model contract to be selected, depending on a number of parameters.
9. Before establishing new mechanisms to promote knowledge transfer (such as mobility or funding schemes), relevant stakeholder groups, including SMEs and large industry as well as public research organisations, are consulted.
10. The pooling of resources between public research organisations at local or regional level is promoted where these do not have the critical mass of research spending to justify having their own knowledge transfer office or intellectual property manager.
11. Programmes supporting research spin-offs are launched, incorporating entrepreneurship training and featuring strong interaction of public research organisations with local incubators, financiers, business support agencies, etc.
12. Government funding is made available to support knowledge transfer and business engagement at public research organisations, including through hiring experts.

## COHERENCE IN TRANS-NATIONAL COOPERATION

13. In order to promote transnational knowledge transfer and facilitate cooperation with parties from other countries, the owner of intellectual property from publicly-funded research is defined by clear rules and this information, together with any funding conditions which may affect the transfer of knowledge, is made easily available. Institutional ownership – as opposed to the “professor’s privilege” regime – is considered the default legal regime for intellectual property ownership at public research organisations in most EU Member States.
14. When signing international research cooperation agreements, the terms and conditions relating to projects funded under both countries’ schemes provide all participants with similar rights, especially as regards access to intellectual property rights and related use restrictions.

## DISSEMINATION OF KNOWLEDGE

15. Open access is implemented by public research funding bodies with regard to peer-reviewed scientific publications resulting from publicly-funded research.
16. Open access to research data is promoted, in line with the OECD *Principles and Guidelines for Access to Research Data from Public Funding*, taking into account restrictions linked to commercial exploitation.
17. Archival facilities for research results (such as internet-based repositories) are developed with public funding in connection with open access policies.

## MONITORING IMPLEMENTATION

18. The necessary mechanisms are put in place to monitor and review progress made by national public research organisations in knowledge transfer activities, e.g. through annual reports of the individual public research organisations. This information, together with best practices, is also made available to other Member States.

# COUNCIL RESOLUTION ON THE MANAGEMENT OF INTELLECTUAL PROPERTY IN KNOWLEDGE TRANSFER ACTIVITIES AND ON A CODE OF PRACTICE FOR UNIVERSITIES AND OTHER PUBLIC RESEARCH ORGANISATIONS - "IP CHARTER INITIATIVE"

## Council Resolution

10323/08

30 May 2008

THE COUNCIL OF THE EUROPEAN UNION

RECOGNISES the importance of effective management and protection of intellectual property, the promotion of knowledge transfer across Europe and the efficient dissemination of scientific and technological innovations in the European Research Area in order to maximise the socio-economic impact of public research efforts;

RECALLS the work undertaken in the context of the "Intellectual Property Charter" Initiative of the 2007 German Presidency endorsed by the European Council in June 2007<sup>1</sup>, the Commission's Communication entitled "Improving knowledge transfer between research institutions and industry across Europe" of 4 April 2007<sup>2</sup>, its own conclusions on "Knowledge transfer and the use of intellectual property in the European Research Area" of 25 June 2007<sup>3</sup>, and the European Council conclusions of March 2008<sup>4</sup>; RECALLS the work of CREST in the context of the Open Method of Coordination (OMC);

WELCOMES AND SUPPORTS the Commission's Recommendation on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research organisations, included in the Annex to this Resolution, as one of the policy initiatives taken by the Commission to follow up its Green Paper entitled "The European Research Area: New Perspectives"<sup>5</sup>;

INVITES Member States to actively support the Recommendation, and to promote the effective take-up of the Code of Practice by universities and other public research organisations, while fully respecting their autonomy in dealing with IPR;

CALLS UPON all universities and other public research organisation to pay due regard to the content of the Commission's Code of Practice and to implement it according to their specific circumstances, including appropriate flexibility for contract research<sup>6</sup>;

INVITES the Commission to apply the principles laid down in the Recommendation of the Code of Practice in relevant EU policies and instruments;

INVITES Member States and the Commission to establish, in partnership, light and effective governance arrangements, including the monitoring and evaluation of the take up and impact of the Recommendation and Code of Practice, on the basis of indicators, the exchange of best practices with active involvement of stakeholders, which could lead to the definition of further guidelines on specific issues of common interest where justified;

RECOMMENDS to the Heads of State and Government to endorse this Resolution at their next summit meeting.

1 Doc. 11177/1/07 REV 1 CONCL 2.

2 Doc.8323/07 EDUC 67 RECH 100 COMPET 93.

3 Doc. 10150/07 EDUC 115 RECH 169 COMPET 180.

4 Doc. 7652/08 CONCL 1.

5 Doc. 8322/07 RECH 99 + ADD 1.

6 Collaborative and contract research in this document are to be understood in the sense of the Community framework for State Aid for R&D and Innovation (O.J. No. C 323 of 30.12.2006), in particular points 3.2.1. and 3.2.2. thereof.





# INTERNATIONAL COOPERATION

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A STRATEGIC EUROPEAN FRAMEWORK FOR INTERNATIONAL  
SCIENCE AND TECHNOLOGY COOPERATION

Communication from the Commission  
to the Council and the European Parliament

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A EUROPEAN PARTNERSHIP FOR INTERNATIONAL SCIENTIFIC  
AND TECHNOLOGICAL COOPERATION

Council Conclusions

# A STRATEGIC EUROPEAN FRAMEWORK FOR INTERNATIONAL SCIENCE AND TECHNOLOGY COOPERATION

Communication from the Commission to the Council  
and the European Parliament

COM(2008) 588

24 September 2008

This Communication presents a strategic European Framework for international cooperation in science and technology (S&T). It also covers the specific aspects of such cooperation in information and communication technologies (ICT).

By strengthening its research effort and facilitating the use of new technologies, Europe can respond more effectively and efficiently to the major challenges society is facing today. Deepening the European Research Area (ERA) through greater integration and cross-border coordination of research investments and activities will increase Europe's competitiveness and its attractiveness as a place to invest in research and innovation. Promoting European ICTs worldwide as a key driver of socio-economic growth will also contribute to the Growth and Jobs agenda<sup>1</sup>. Deepening the ERA should go hand in hand with widening it, through enhanced cooperation with international partners.

## KEY STRATEGIC GOAL FOR INTERNATIONAL COOPERATION IN SCIENCE AND TECHNOLOGY AND UNIVERSAL ACCESS TO ICTS

Globalisation is accelerating, and this has an impact on the way we produce, share and use knowledge. Major global challenges such as climate change, poverty, infectious disease, threats to energy, food and water supply, security of the citizen, networks security and the digital divide highlight the need for effective global S&T cooperation to promote sustainable development.

The 7<sup>th</sup> Research Framework Programme (FP7) reflects this need by being open to third country participation and

by including several new instruments to encourage international cooperation. However, FP7 represents only a small proportion of all research in Europe; most research investment is by the Member States. Only by strengthening the partnership between the Member States and the European Community (EC) can European international S&T cooperation contribute effectively to stability, security and prosperity in the world<sup>2</sup>. Better cooperation is equally needed for promoting European policy goals and European technologies worldwide. This Communication sets out a European Framework for international cooperation in S&T to underpin the strategy which is based on a new long-term partnership between the Member States and the EC. It also proposes ways to improve cooperation instruments with strategic partners. The main objective is to contribute to global sustainable development and to foster Europe's S&T excellence, which is increasingly a basis for economic competitiveness at a time where EU companies are ever more facing competition from emerging economies.

This proposed European Framework consists of a number of core principles and orientations for action. Actions under this Framework will strengthen European public and private players in the way they interact with their partners and competitors elsewhere in the world. The proposed Framework will contribute to the free circulation of knowledge – 'the EU's fifth freedom' – at global level, to raising the S&T profile of Europe worldwide and to disseminating European ICT know-how in the world. It will put the European Research Area on the global map, an Area open to the world and boost Europe's competitiveness in the global economy.

<sup>1</sup> The EU accounts for over 15% of world trade in ICT goods and services. ICT goods account also for a substantial share of total trade between the EU and its economic partners. They represent 10.2% of all extra-EU exports of goods and 14.4% of all imports.

<sup>2</sup> The European Research Area: New Perspectives (COM(2007)161 of 4/04/2007).



Actions under the Framework will:

- strengthen the coordination of Member States' and EC actions aimed at reinforcing strategic S&T co-operation and Information Society dialogues with partners worldwide;
- create additional synergies between public authorities, industry and civil society to make EU action in these policy fields more efficient;
- facilitate access to knowledge, resources and markets worldwide;
- have a positive influence on the global science and technology agenda by pooling of resources to achieve critical mass and by underlining democratic values in the global information society, in particular freedom of expression and the right to access information<sup>3</sup>;
- improve Framework conditions under which international research is conducted and promote the European model of convergence to reinforce the effectiveness of information society policies;
- make it easier for Europe's researchers and universities to work with the best scientists and research infrastructures in the world;
- strengthen the global position of the European industry in electronic communications and other advanced technologies.

This Communication responds to the Council Conclusions of February 2008, and is one of the five Commission initiatives following public debates on the future of the ERA<sup>4</sup> and on globalisation of the Information Society<sup>5</sup>. It

also follows-up the conclusions of the 2005 World Summit on information society (WSIS)<sup>6</sup>“.

## 1. PRINCIPLES UNDERLYING THE STRATEGIC EUROPEAN FRAMEWORK FOR INTERNATIONAL S&T COOPERATION AND THE NEW INFORMATION SOCIETY PARTNERSHIPS

### WIDENING THE ERA AND MAKING IT MORE OPEN TO THE WORLD

Excellence in research stems from competition between researchers and from getting the best to compete and co-operate with each other.

A crucial way to achieve this is for public authorities, research funding agencies, public and private research institutes and universities to work together across borders. Such cooperation lies at the very foundation of the ERA. In an increasingly global science arena, the boundaries of the ERA should be widened to include our neighbours, and cooperation with key international partners should be encouraged and facilitated.

### ENSURING COHERENCE OF POLICIES AND COMPLEMENTARITY OF PROGRAMMES

Research is not carried out in a vacuum. It contributes, to and is influenced by, a broader societal agenda.

Europe's International S&T Strategy should underpin the EU's main policy objectives, such as combating climate change, bridging the digital divide, securing sustainability of energy supplies, biodiversity and ecosystems, and achieving the Millennium Development Goals. Greater coherence between research activities and other policies and funding instruments will strengthen the impact and influence of S&T on these policies.

3 In its Communication of 27.4.2006 - "Towards a Global Partnership in the Information Society", the Commission called upon industry to develop codes of conduct on the misuse of ICT for restricting freedom of expression. So far this call for action has not been followed-up.

4 SEC(2008)430 of 2/04/2008.

5 A public consultation on EU Strategy for International Co-operation on ICT was launched between 18 June and 1 October 2007.

6 In its Resolution on the Information Society (2004/2204) the Parliament "calls the Union and Member States to view the WSIS as a spur for cooperation in traditional areas of geographical or historical proximity (...) and for new cooperation with more remote emerging countries". In its Resolution on the Internet Governance Forum (B6-/2008), the Parliament "calls on the concerned EU Institutions to take the Tunis Agenda into consideration in their legislative work."

## **FOSTERING STRATEGIC S&T COOPERATION WITH KEY THIRD COUNTRIES**

Europe cannot cooperate with all countries on all topics.

Choices of research topics and third country partners have to be made. A critical mass of resources in support of these choices has to be guaranteed. Cooperation with scientifically advanced partners will differ in nature from that with countries which are developing their science base; but both types of cooperation are needed. An effective international cooperation strategy requires a long-term commitment by the EC and Member States and a new approach to jointly defining priority research areas for cooperation with key third countries.

The ERA being built by Member and Associated States illustrates the potential of close cooperation between countries. Where groups of countries in a geographical region (e.g. ASEAN, African Union) wish to engage in S&T cooperation with the EC, and where critical mass in S&T can be best achieved to address key global challenges, a bi-regional approach should be favoured.

In advanced technology areas, such as ICTs, geographical and sectorial research priorities for cooperation should be inspired by joint inputs from industry, academia and research institutes, for example coming from the Strategic Research Agendas (SRA) of European Technology Platforms, the Information Society dialogues, and from other bilateral and regional contacts. This would facilitate by inclusion of third country partners from the early stages in the research pursued.

Special attention will be required to overcoming divergent standards between countries, as these are often an obstacle to spreading information and communication technologies and can hamper interconnection and interoperability.

## **DEVELOPING THE ATTRACTIVENESS OF EUROPE AS A RESEARCH PARTNER**

To maintain research excellence and develop linkages between researchers and institutions in Europe and worldwide, Europe must be a favoured partner for research. To achieve this, we need adequate competitive and institutional research funding, world-class infrastructures, enhanced mobility for researchers in and out of Europe and appropriate IPR rules.

International S&T cooperation activities have grown in importance in successive Framework Programmes, and the creation of the European Research Council has strengthened Europe's reputation for high-quality frontier research. The work of the European Strategy Forum for Research Infrastructures (ESFRI) has attracted global interest and expressions of willingness by international partners to work together.

An open ERA is the best way to make European S&T more attractive globally. Ultimately the success of the ERA depends on the availability of highly qualified researchers to underpin the development of a competitive, knowledge-based economy. Researchers trained both in Europe and third countries, or linked through networks, will become ambassadors for international cooperation.

## **LAUNCHING RESULTS-ORIENTED PARTNERSHIPS ON INFORMATION SOCIETY REGULATION**

A first step will be to make ongoing policy dialogues more results-oriented by early identification of priorities for regulatory cooperation and joint research. Where appropriate these dialogues should be extended to the convergence of the telecom and media sectors. Business dialogues (e.g. Business Round Tables) and consumer dialogues should also be results-oriented.

Priorities for regulatory co-operation will include promoting the establishment of independent and effective regulatory authorities, the non-discriminatory allocation of scarce resources, publicly available licensing criteria

and transparent award procedures, non-discriminatory and cost-orientated interconnection, and the use of open technologies. Monitoring on non-tariff barriers and regulatory hurdles faced by EU players on third markets should be stepped-up.

## THE EUROPEAN COMMUNITY AND MEMBER STATES WORKING TOGETHER

By working together, Member States and the EC will achieve much more, both within the EU and worldwide. This is true for policy areas like the environment or energy, and it is also true for research and for information society policies.

Working together will increase the attractiveness of Europe's research and foster better conditions for investment and acquisitions in key markets. Better coordination also responds to the interest of many partners worldwide to learn from our regulatory approach on issues such as convergence. At the same time pooling our efforts will provide Europe with better economic intelligence on key countries / regions in the research and information society sectors.

Member States and the EC need to define together their priority areas for research with third countries in order to draw most benefit from coordinated initiatives and actions.

The International Thermonuclear Experimental Reactor (ITER) project shows, on a large scale, what can be achieved when there is the political will to work together internationally and to pool resources. But on a smaller scale, there are many examples of the great impact of coordinated European research agendas and joint funding, such as the European Initiative for Agricultural Research for Development.

A more coherent use of Member State and EC resources for international S&T cooperation will help to gather the critical mass needed to provide an effective response to policy challenges that are increasingly global.

A strengthened partnership between the EC and European intergovernmental initiatives (such as EUREKA and COST) and research organisations, notably EIROforum<sup>7</sup>

and its individual members, can also make a significant contribution towards this aim.

A well coordinated and effectively communicated international S&T strategy will enable Europe to develop a 'single voice' on key global challenges and will help the EU to participate more effectively in agenda setting in international fora such as the OECD, and in particular those with a UN focus such as UNESCO, WHO, and the ITU.

## 2. ORIENTATIONS FOR ACTION TO MAKE THE ERA MORE OPEN TO THE WORLD

Developing a close and long-term partnership between Member States and with the EC, underpinned by the principles outlined above, is essential if the ERA is to achieve its full international potential.

Sharing objectives, formulating and implementing common European research agendas and positions vis-à-vis third countries and in international fora, engaging in joint activities and pooling efforts and resources will be essential for the success of this partnership.

This process creates flows towards and away from Europe. It attracts researchers from all over the world, whilst also improving Europe's technology potential on the markets worldwide, as for example in ICTs.

To achieve maximum results the following proposals need to be put into effect at both EC and Member State levels, and in close cooperation with third countries. An appropriate institutional setting is needed to move this process forward.

<sup>7</sup> EIROforum includes the: European Organisation for Nuclear Research, European Fusion Development Agreement, European Molecular Biology Laboratory, European Space Agency, European Southern Observatory, European Synchrotron Radiation Facility, Institut Laue-Langevin.

## 2.1. STRENGTHENING THE INTERNATIONAL DIMENSION OF THE ERA

- **Integrating Europe's neighbours into the ERA**

Association to FP7 is the most intensive form of cooperation at Community level. The opportunity for European Neighbourhood Partner Countries to participate in certain EC policies and programmes, including FP7, is an important aspect of the European Neighbourhood Policy (ENP)<sup>8</sup>.

Virtually all Western Balkan countries are now associated to FP7. Association is also open to the EU's southern and eastern neighbours. Widening the geographical scope of the ERA to include ENP partner countries will make an important contribution to the EU's policy goals towards these countries, in particular building sustainable economic prosperity. The association process will unfold gradually, on a case by case basis, taking into account endogenous S&T capacities, present and potential levels of cooperation, and the mutual interests of the EC and the ENP partner countries. ENP countries also deserve particular attention in fostering international cooperation on ICTs, both because of their eagerness to adopt EU patterns, and because some of them represent significant markets for EU technology companies.

In order to promote closer scientific ties with these countries and to prepare association to the FP7, S&T capacity building initiatives and research cooperation will be undertaken by the EC through the European Neighbourhood and Partnership Instruments and targeted FP7 activities (e.g. Specific International Cooperation Actions).

Policy dialogue with these countries is important. EC bilateral S&T agreements with a number of them (such as Egypt, Morocco, Tunisia and Ukraine) are a good setting for dialogue. In addition, bilateral policy dialogues on S&T will be launched with countries which signal a specific interest to become associated to FP7 but which have not concluded a bilateral S&T agreement with the EC.

The recently launched FP7 INCO-Net projects support regional platforms for S&T policy dialogue and priority setting at bi-regional level; they involve Member States and ENP partner countries in identifying future research priorities and coordinated actions.

Russia, as a neighbouring country with significant S&T capacities, is already an important partner and has made it clear that it sees the EU as its long-term priority in S&T cooperation. EU-Russia S&T cooperation could be enhanced through an FP association agreement, as recognised by both sides at the EU-Russia Permanent Partnership Council on Research in May 2008. This would contribute to the implementation of the EU-Russia Common Space of Research and Education, including Cultural Aspects. The perspective of a possible association to the FP should however be seen in the wider context of EU-Russia relations and the new EU-Russia Agreement for which negotiations were launched at the EU Russia Summit in June 2008.

<sup>8</sup> COM (2006) 724 final of 4/12/2006, Council of the European Union, 10657/07 of 18/06/2007.

#### Member States and the Commission to:

- Ensure coordinated and/or complementary implementation of S&T priorities identified in the various policy dialogues with ENP partner countries, in order to facilitate a possible association to FP7.
- Enhance regional dialogues on Information Society issues.
- Promote European regulatory principles by developing better synergies with European regulators.

#### The European Commission to:

- Establish policy dialogues with interested ENP partner countries that have no EC bilateral S&T agreement, with a view to their possible association to FP7.
- Accelerate the spreading of best practices and the alignment of policies in ENP partner countries by gradually opening to them the ICT Policy Support Programme (PSP) in the framework of the Competitiveness and Innovation Programme (CIP).

#### • Fostering strategic cooperation with key third countries through geographic and thematic targeting

Member States and the EC are involved in a myriad of research cooperation activities with third countries. The absence of a common strategy on a European level has led to duplication in this cooperation, with a resulting waste of resources and a reduced impact<sup>9</sup>.

Where there is common interest and mutual benefit, where excellent human S&T resources and capacity can be identified, and where a collective response to international commitments is needed, a more coordinated approach would benefit Europe and third country partner(s). The EC and Member States should therefore define together strategic priorities for S&T cooperation with key third countries and pursue these priorities in a coherent way.

With **industrialised and major emerging economies**, priorities for coordinated S&T cooperation should focus on areas of mutual interest requiring broad international efforts to address global S&T and societal challenges. Since the international S&T arena remains an area of strong competition between EU Member States and third countries, a healthy balance between cooperation and competition has to be found. In this respect priority should go to developing joint infrastructures, frontier and pre-competitive research, and research leading to common or compatible standards that facilitate market access. Particularly in ICT, research co-operation will address the issue of divergent standards which are often an obstacle to spreading technologies and hamper interconnection and interoperability. Research cooperation should also focus on areas that are beneficial for the competitiveness of EU companies while avoiding these benefits being undermined, for instance due to the lack of intellectual property protection.

For **developing countries**, research cooperation should be aligned with development cooperation policies and the Millennium Development Goals<sup>10</sup>. Certain research areas are particularly pertinent, such as developing sustainable supplies of clean water, food and energy, combating infectious diseases, tackling the impact of climate change,

<sup>9</sup> CREST Report 1207/07 of 13/12/2007.

<sup>10</sup> SEC (2008) 434, Council of the EU 9907/08 of 27/05/2008.

reducing the digital divide, and reducing threats to biodiversity and ecosystems on land and sea. In addition to collaborative S&T projects, international cooperation with developing countries must include S&T capacity building (e.g. infrastructure, human resources, research policy, networks of researchers and research institutes). This will enable researchers in these countries to contribute to the solution of local, regional and global problems and to economic and social development. Enhanced research capacity will also encourage researchers to compete internationally in terms of scientific excellence and increase their incentives to continue to base their research activities in developing countries.

In the case of Africa, the focus for a concerted EC and Member States effort will be on the implementation of the Joint Africa-EU Strategic Partnership agreed at the Lisbon Summit in 2007.<sup>11</sup> The specific Africa-EU partnership on “*Science, Information Society, and Space*” is based on the recognition that science, technology and innovation are essential to eradicating poverty, combating disease and malnutrition, stopping environmental degradation and building sustainable agriculture and economic growth in Africa. Bridging the scientific and digital divide is essential to finding African-led responses to these challenges.

Capacity building typically falls within the remit of development policy and funding, which is why coherence and complementarity of S&T instruments with other instruments and programmes for external action and assistance must be strengthened at both Community<sup>12</sup> and Member State levels. Where third countries agree, the targeted use of such instruments and programmes for building S&T capacities should be encouraged. Complementarity with other funding bodies, including the International Financial Institutions, and global research initiatives (e.g. Consultative Group of International Agricultural Research) must also be sought. A pre-requisite is to raise the awareness of policy stakeholders in developing countries of the importance of S&T for a better quality of life. Special attention should be paid to promoting and facilitating gender equality and the role of private sector investment in S&T in developing countries.

Strategic research priorities will need to be implemented in a coherent and coordinated way by Member States and the EC. At present individual Member States use bilateral agreements and national programmes for cooperation with third countries. Likewise, the EC fosters strategic cooperation with key third countries, particularly within EC bilateral S&T agreements<sup>13</sup>. These agreements have been reinforced under FP7 with specific instruments to assist their implementation and to support a targeted approach (e.g. the Specific International Cooperation Actions, and coordinated calls). Sharing information on future initiatives under these agreements makes for closer coordination between the EC and the Member States.

A bi-regional approach towards country groupings (e.g. ASEAN, African Union) would have advantages over continually increasing the number of EC bilateral S&T agreements. But such bi-regional S&T dialogue cannot be effective without a regional structure capable of ensuring coordination with and within the country grouping, and which can play a significant role in S&T priority setting and research funding. In the long term such policy dialogue could lead to bi-regional S&T agreements. The current FP7 INCO-Net projects prepare the ground for such bi-regional platforms and herald a new approach to the involvement of Member States and third countries in identifying future S&T priority areas.

Where fully-fledged EC bilateral or bi-regional S&T agreements are not justified, the EC will ensure that the specific S&T components of any Partnership and Cooperation Agreements which are concluded between the EC and its Member States with third countries are strengthened.

<sup>11</sup> [ec.europa.eu/development/eu-africa-summit-2007](http://ec.europa.eu/development/eu-africa-summit-2007).

<sup>12</sup> These are: the Instrument for Pre-Accession (IPA), the European Development Fund (EDF), the Development Cooperation Instrument (DCI), the European Neighbourhood and Partnership Instrument (ENPI).

<sup>13</sup> [www.ec.europa.eu/research/inco](http://www.ec.europa.eu/research/inco).

### Member States and the Commission to:

- Identify together and agree on S&T cooperation priorities with key third country partners where cooperation brings a clear added value for Europe in addressing key global challenges and engage in joint initiatives. This should be done where possible in accordance with the approach put forward in the Commission Communication “Towards joint programming in research: working together to tackle common challenges more effectively”<sup>14</sup> and in the i2010 action plan<sup>15</sup> as regards ICT and media policies;
- Share the experience gained and initiatives foreseen under bilateral S&T agreements and promote an efficient network of EC and Member State science, ICT and media counsellors in the EC Delegations and Member States’ embassies in third countries;
- Ensure that international S&T and development policies are consistent, and that funding mechanisms at EC level (both FP funds and instruments for external action and assistance) and at Member State level complement one another;
- Strengthen EU and African Union cooperation on S&T through the implementation of the Joint EU-Africa Strategic Partnership and Action Plan, particularly the 8th Partnership on Science, Information Society and Space; this will require both EC and Member States’ resources and the active involvement of the African Union Commission, Regional Economic Communities and relevant public and private stakeholders.

### The European Commission to:

- Keep the different FP7 instruments under review to ensure that their full potential for fostering strategic cooperation with key third countries is realised;
- Intensify S&T including ICT cooperation at the level of regional country groupings (e.g. ASEAN, African Union), develop policy dialogue with appropriate regional structures and negotiate bi-regional S&T agreements where appropriate;
- Encourage third countries to incorporate S&T capacity building, including the gender equality aspect, and the use of ICT in their National or Regional Indicative Programmes for EC external assistance funds and cooperation programmes;
- Continue providing technical assistance on information society policies to third countries, drawing from the experience of such assistance programmes and geographically targeted projects, such as the @LIS for Latin America; EUMEDIS for the Euro-Mediterranean area, and EU-Asia IT&C for Asia.

<sup>14</sup> COM(2008) 468 final of 15/7/2008.

<sup>15</sup> COM(2005) 229 final of 1/6/2005.

## 2.2. IMPROVING THE FRAMEWORK CONDITIONS FOR INTERNATIONAL S&T COOPERATION

- **Tackling scientific challenges through global research infrastructures**

One essential area of science that has a global dimension and lends itself particularly well to international cooperation is the joint development of and access to research infrastructures. Many S&T disciplines require considerable investment in infrastructure if major scientific advances are to be made.

There are good examples of Member States, the EC, intergovernmental research organisations and third countries working effectively together to develop research infrastructures (e.g. GEOSS, GEANT). GEANT, a high-capacity and high-speed communications network interconnecting the European National Research and Education Networks, initially connected research networks in industrialised countries (North America and Japan). It now has new links to China, India, Latin America, South East Asia, North Africa, the Middle East and the Balkans. This extension serve the research and education communities in the different regions of the world and has enabled platforms of cooperation in many fields across these regions and with Europe. These initiatives will be further extended in time, geographical coverage and scope over the coming years.

However, a more structured approach to jointly developing global research infrastructures, including e-infrastructure is needed. In Europe, ESFRI<sup>16</sup> has taken the first steps in this direction by establishing a European Roadmap for new research infrastructures which are already global by nature or have the potential to become so.

At the international level discussions continue on global research infrastructure projects that require international cooperation in order to be achieved in different disciplines and research areas (e.g. LIFEWATCH on biodiversity, the Integrated Carbon Observation System, and the Square Kilometre Global Radio Astronomy Array).

In the ICT sector the EC is promoting, with the USA, Australia and Japan, a global research agenda in trustworthy infrastructures, including sharing of knowledge and best research practices for improving the resilience of present and future global networks and infrastructures.

### Member States and the Commission to:

- Promote international cooperation in large-scale research infrastructures to facilitate cost sharing where appropriate;
- Explore new ways to reduce the digital divide in developing countries, including public private partnerships;
- Participate in the ad-hoc group of senior officials, composed of representatives of G8 members as well as individual countries, and build on the work of existing fora, such as the OECD Global Science Forum, to continue the dialogue in this field;
- Intensify cooperation on the global research agenda infrastructures in the ICT sector in the period 2009-10 including efforts to coordinate research and other policies;
- Include security and trust issues as priority in every current and future Information Society dialogue with third countries and regions.

<sup>16</sup> European Strategy Forum on Research Infrastructures, <http://cordis.europa.eu/esfri/home.html>.



- **Mobility of researchers and global networking**

Mobility of researchers is an essential feature of international S&T cooperation, and competition for the best brains is intense. In this context it is crucial that European researchers who work in a third country remain part of the ERA, being a valuable resource at home as well as abroad. Similarly, researchers who come to Europe from emerging economies or developing countries must be enabled to contribute to their own countries' development. Such connectivity, through networking, or 'return' grants, will make brain circulation a reality. Furthermore the possibility of establishing joint physical or virtual research laboratories between the EU and third countries should be promoted.

Action is being taken<sup>17</sup> to ensure that researchers working in the EU enjoy excellent training, attractive careers and no barriers to their mobility. The People Programme of FP7 offers multiple opportunities for the mobility of researchers between Europe and the rest of the world. The full implementation of the 'Scientific Visa Package'<sup>18</sup> by all Member States will facilitate entry into Europe for researchers from third countries. However, more can and should be done.

**Member States and the Commission to:**

- Continue — in close cooperation with third countries — to develop networks for European researchers working abroad, and for non-European researchers in Europe.

**Member States to:**

- Transpose the 'Scientific Visa Package' (including the EC Recommendation on short-term visas for researchers) into their national legislations and ensure smooth administrative procedures for visa approval;
- Increase specific funding mechanisms and/or re-integration grants for European researchers returning to Europe and third countries' researchers returning to their home countries

**The Commission to:**

- Optimise existing EC instruments for international mobility, including the FP7 People Programme.

- **More open research programmes**

EC bilateral S&T agreements are based on the principles of equitable partnership, common ownership, mutual advantage, shared objectives and reciprocity. While these principles have not always been fully implemented, reciprocal access to research programmes and funds should be pursued to enhance the mutual benefit of international S&T cooperation.

FP7 is open to third country partners. Funding is normally limited to participants from international cooperation partner countries<sup>19</sup>. However, since open competition promotes excellence in research, funding for collaborative projects could be extended to include research

<sup>17</sup> COM 317 final of 23/5/2008.

<sup>18</sup> Council Directive O.J. L 289/15 of 3/11/2005 (2005/71/EC), Recommendation of the European Parliament and of the Council of 28 September 2005 (2005/761/EC) O.J. L 289/23 of 3/11/2005.

<sup>19</sup> Regulation (EC) 1906/2006 of 18/12/2006.

organisations and researchers located in industrialised third countries where reciprocal funding is made available for European researchers.

Member States are developing funding schemes to facilitate international cooperation; some are starting to open these schemes to allow funding for R&D work done abroad. Member States should increase their efforts to launch cooperative research initiatives with third countries on well defined areas of research and to gradually open their respective schemes (including funding) in specified areas to countries prepared to provide reciprocal access.

**Member States and the Commission to:**

- Intensify the use of FP7 coordination instruments (e.g. ERA-NET schemes) to provide incentives to link up EC and national resources for cooperation with third countries.

**Member States to:**

- Work towards a step-by-step opening of national research programmes in well defined research areas with key third countries on a reciprocal basis; they should design and implement joint initiatives and programmes with third countries where reciprocal conditions in the partner countries' programmes exist or can be developed.

**The Commission to:**

- Translate — within the context of the EC bilateral S&T agreements — the reciprocity principle into mutual access to public research programmes and cooperation opportunities in third countries. As a consequence, it should progressively introduce funding for scientists from industrialised third countries in calls under FP7, subject to reciprocal conditions in the partner countries' research programmes.

• **Intellectual Property Issues**

Good management of intellectual property (IP) issues is an important requirement for successful and durable international S&T cooperation, promoting trust and the sharing and exploitation of knowledge in cooperative research activities.

It must be based on shared principles and practices, ensuring reciprocity, equitable treatment and mutual benefits. The EU and third countries should apply appropriate rules and treat each other's legal entities similarly. IP principles and practices will continue to be promoted through bilateral S&T cooperation agreements and adequate access of Least Developed Countries (LDC) to the results of research will be facilitated.

**Member States and the Commission to:**

- Promote globally, including through bilateral EC and Member State international S&T cooperation agreements, the principles set out in the Recommendation and associated Code of Practice on the management of IP . They should further develop these to guarantee fair and mutually beneficial conditions for all parties, whilst taking account of LDC needs.

- **Pre-standardization**

Particular attention in ICT research co-operation will be given to the issue of divergent standards as they are often an obstacle to spreading technologies and hamper inter-connection and interoperability.

**The Commission to:**

- Promote strengthening of the link between results of research programmes and standardization, put more emphasis on international pre-competitive industrial research collaboration and pay more attention to pre-standardization cooperation based on open standards.

- the Council identifies the appropriate institutional settings for ensuring the effective implementation of the Strategic European Framework for International S&T cooperation, taking into account the specific characteristics of Information society policies;
- the Council oversees and monitors progress of the further opening of the ERA to the world and, if necessary, considers further steps to ensure the effective implementation of the proposed actions;
- the European Parliament lends its support to a coherent framework for international S&T cooperation and continues to follow-up, in close cooperation with the Commission, discussions on global issues, notably in fora such as the Internet Governance Forum.

### 3. IMPLEMENTING A SUSTAINABLE PARTNERSHIP

As set out in this Communication, the EC and the Member States will need to strengthen their strategic S&T cooperation with key partners worldwide. This can best be achieved by building a strong partnership between the Member States and the EC. At present there is no dedicated institutional setting to propel and guide such a partnership.

It is therefore essential that:

- Member States, the Council and the Commission commit themselves to the proposed Strategic European Framework for International S&T Cooperation, including the partnership for action, outlined in this Communication;

# A EUROPEAN PARTNERSHIP FOR INTERNATIONAL SCIENTIFIC AND TECHNOLOGICAL COOPERATION

## Council Conclusions

16763/08

2 December 2008

THE COUNCIL OF THE EUROPEAN UNION,

RECALLING the general context of the realisation of the European Research Area (ERA) and in particular the Commission's Green Paper of 4 April 2007<sup>1</sup>, the conclusions of the Presidency of the European Council of 14 December 2007 and the Council conclusions on the launch of the "Ljubljana Process" – towards full realisation of the European Research Area (30 May 2008)<sup>2</sup>, in which a "wide opening of the ERA to the world" constitutes one of the five initiatives identified in this context, and REFERRING to its "Vision 2020 for the European Research Area" (2 December 2008)<sup>3</sup>;

CONSIDERING that accelerating globalisation creates opportunities for increasing scientific excellence and for achieving sustainable development, and whereas, in particular, scientific and technological cooperation needs to be stepped up at worldwide level in order to resolve the major global challenges (those already identified such as climate change, poverty, infectious diseases, energy risks, water and food supply, safety of the population, preservation of biodiversity, network security and the digital divide as well as further challenges which may emerge);

CONSIDERING that the Seventh Framework Programme for Research and Technical Development (7<sup>th</sup> FP) allows for the participation of third countries and includes several new instruments intended to encourage international cooperation;

CONSIDERING that there are a large number of bilateral and multilateral S&T cooperation agreements in force concluded between the European Communities and third countries as well as between Member States and third countries, and WHEREAS there are currently no strategy at European level for exchanging relevant information on

the activities deriving from these various agreements and, where appropriate, ensuring the adequate level of coordination amongst these activities;

CONSIDERING that Europe's aspiration – as expressed in its "Vision 2020 for the ERA" – is to be able to speak with a consistent voice with its main partners, as well as within relevant international fora, in the area of science and technology;

CONSIDERING that international scientific and technological activities should be based on principles and practices which uphold reciprocity, fair treatment and mutual benefits, as well as adequate protection of intellectual property;

CONSIDERING that scientific and technological cooperation activities play a crucial role in the development, sharing and diffusion of knowledge worldwide, and constitute an important means for promoting the mobility of researchers and brain circulation;

1. IS OF THE VIEW that the pursuit of the European Union's general objectives can be strengthened through a strategic framework for the appropriate coordination of its various scientific and technological cooperation activities with third countries, while setting priorities that are differentiated according to the level of scientific and economic development and sectoral characteristics of those countries;
2. WELCOMES the Commission Communication "A strategic European framework for international science and technology cooperation"<sup>4</sup>, with the aim of, in particular, strengthening the scientific and technological base of the European Union, boosting the competitiveness of its industry and helping to deal

1 8322/07 [COM(2007)161].

2 10231/08.

3 16767/08.

4 13498/08 [COM(2008) 588].

- with global challenges within a context of “global responsibility”;
3. UNDERLINES that such a strategy aims to develop better coherence and synergies between the various international scientific and technological cooperation activities carried out in Europe by Member States and the European Community, whilst respecting the principle of subsidiarity;
  4. INVITES Member States, incorporating as appropriate the countries associated to the FP7, to encourage a dialogue at European level with a view to the coordination of their international S&T cooperation policies and activities, as well as to facilitate consultation between interested stakeholders, including industry, in order to identify opportunities for and, where appropriate, obstacles to the development of scientific and technological cooperation activities between the European Union and the rest of the world;
  5. INVITES Member States and the Commission to form a European Partnership in the field of international scientific and technological cooperation (“S&T cooperation”) with a view to implementing this European strategy; this should be based on consultation and sharing of information in a flexible way in order to identify common priorities which could give rise to coordinated or joint initiatives; and INVITES Member States and the Commission to coordinate activities and positions vis-à-vis third countries and within international fora in those areas which are part of this strategy, incorporating where appropriate the associated countries of the 7th FP;
  6. In that context, INVITES Member States and the Commission to collaborate within a dedicated configuration of CREST (thereafter called “Strategic Forum for International S&T Cooperation”) to drive forward the European Partnership for S&T cooperation according to the mandate set out in the Annex;
  7. INVITES Member States and the Commission to contribute fully towards the success of the Partnership by making available to it appropriate information and experience acquired in connection with their respective cooperation activities including the outcome of evaluation and impact assessment of S&T collaboration with third countries;
  8. Within the framework of the Partnership, INVITES Member States and the Commission to better coordinate and make more operational their S&T cooperation activities with other regions of the world, notably by strengthening or creating dialogue platforms with other regions of the world with a view to jointly identifying future priorities and actions with regard to S&T cooperation;
  9. INVITES the Commission to further increase the impact of S&T Agreements, ensure the correct application of the principles of reciprocity, fair treatment and mutual benefits as referred to in the cooperation agreements between the European Community and third countries in the scientific and technological domain; and INVITES Member States to promote, within the framework of their S&T cooperation with third countries, where appropriate, the principles and practices set out in the Code of Practice for the management of intellectual property in knowledge transfer activities<sup>5</sup>, the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers<sup>6</sup>;
  10. UNDERLINES the need to ensure the necessary coherence and complementarity between European and national instruments supporting research and those supporting S&T capacity-building, and INVITES the Commission to strengthen the relationship between the Framework Programmes for Research and Technological Development (FP), the Pre-Accession Instrument (IPA), the European Development Fund (EDF), the financing instrument for development cooperation (DCI) and the European Neighbourhood and Partnership Instrument (ENPI) as well as other relevant mechanisms;

<sup>5</sup> See Council Resolution (30 May 2008), 10323/08.

<sup>6</sup> OJ L 75, 22.3.2005.

11. and in this context, RECALLS the action already undertaken to promote cooperation between Member States and developing countries, notably the EU-Africa Strategic Partnership, and along these lines CONSIDERS exploring further cooperation with developing countries as part of the EU's overall S&T strategy;
12. CONSIDERS that all specific procedures related to the implementation of the international cooperation strategy of the European Research Area must be examined within the framework of the general approach to the optimisation of the governance of the European Research Area, as foreseen by the Ljubljana Process.

## ANNEX

### MANDATE FOR CREST CONCERNING A STRATEGIC FORUM FOR INTERNATIONAL S&T COOPERATION

#### OBJECTIVE

To facilitate the further development, implementation and monitoring of the international dimension of ERA by the sharing of information and consultation between the partners (Member States and the Commission) with a view to identifying common priorities which could lead to coordinated or joint initiatives, and coordinating activities and positions vis-à-vis third countries and within international fora.

#### WORKING METHODS

CREST will meet in a dedicated configuration (“The Strategic Forum for International S&T Cooperation”) with high level representatives of Member States and the Commission. This dedicated configuration of CREST may be supported by an appropriate working group if deemed necessary. It will be chaired by one of its members representing a Member State designated for a period of 2 years. It will be open, as appropriate, to the countries associated to FP.

#### MAIN ACTIVITIES

- Systematically sharing and structuring information on the S&T cooperation activities and objectives (whether ongoing or planned) of the various partners;
- Pooling relevant knowledge concerning third countries, in particular analyses of their S&T resources and capabilities;
- Ensuring regular consultation between the partners in order to identify their respective objectives and common priorities in terms of S&T cooperation with third countries (“what and with whom?”);

- Where appropriate, coordinating activities of a similar nature implemented by Member States and the Community (with variable geometry);
- If necessary, proposing initiatives to be implemented with appropriate ways and means;
- Networking of Member States’ and the Commission’s scientific advisors in key third countries.

#### REPORTING

Annual report to the Council and to the Commission on progress achieved in realising the objectives of the Partnership, including as relevant:

- mapping of international cooperation activities (whether ongoing or planned) between the EU and third countries;
- analysis of the scope, coherence and complementarity of the various EU activities;
- identification of common priorities and proposals for measures to implement them;
- overall assessment of the impact of the EU’s actions in international S&T cooperation.





European Commission

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