



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 27 June 2007

11058/07

**EIT 16
EDUC 113
RECH 196
COMPET 203**

NOTE

from: General Secretariat

No. prev. doc. : 10413/2/2007 REV 2 EIT 12 EDUC 109 RECH 180 COMPET 188

Subject: Outcome of proceedings of the Council (Competitiveness) on 25 June 2007 -
Proposal for a Regulation of the European Parliament and the Council
Establishing the European Institute of Technology (EIT)
- General Approach

Delegations will find attached the General Approach on the Proposal for a Regulation of the European Parliament and the Council - Establishing the European Institute of Technology (EIT), as well as on the draft statutes, and two declarations to be entered into the Council minutes, as achieved by the Competitiveness Council, meeting on 25 June 2007.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL

establishing the European Institute of Technology

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

1. The Lisbon Growth and Jobs Agenda underscores the need to develop conditions which are attractive to investment in knowledge and innovation in Europe to boost competitiveness, growth and jobs in the European Union.
2. Member States are primarily responsible for sustaining a strong European industrial, competitive and innovative base. However, the nature and scale of the innovation challenge in the Union requires also taking action at Community level.
3. The Community should provide support to foster innovation, in particular through the 7th Framework Programme for Research and Technological Development, the Competitiveness and Innovation Programme, the integrated Lifelong Learning Programme and the Structural Funds.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ C 325, 24.12.2002.

4. A new initiative at Community level thereafter referred to as "the European Institute of Technology Institute (the EIT)" is needed to complement existing Community and national policies and initiatives by fostering the integration of the knowledge triangle -innovation, research and education- across the EU.
5. The European Council of June 2006 invited the Commission to prepare a formal proposal for the establishment of the EIT to be presented in autumn 2006.
6. The EIT should have the objective of contributing to the development of the Community and the Member States innovation capacity, by fully involving higher education, research and innovation activities at the highest standards.
7. The EIT should primarily operate through excellence-driven, autonomous partnerships of universities, research organisations, companies and other stakeholders in the form of sustainable and long-term self-supporting strategic networks in the innovation process. These partnerships should be selected by the Governing Board of the EIT on the basis of a transparent and excellence-based process and designated as Knowledge and Innovation Communities (hereinafter referred to as "KICs"). The Governing Board should also steer the activities of the EIT and evaluate the activities of the KICs. Membership of the Governing Board should balance experience from the business and the research/higher education worlds as well as from the innovation sector.
8. In order to contribute to the competitiveness and to reinforce the international attractiveness of the European economy, the EIT and the KICs should be able to attract partner organisations, researchers and students from all over the world and to cooperate with third country organisations.
9. The relations between the EIT and the KICs shall be based on contractual agreements, which will set out the KICs' rights and obligations, ensure an adequate level of coordination and outline the mechanism for monitoring and evaluation of the KICs' activities and outcomes.

10. There is a need to support higher education as an integral but often missing component of a comprehensive innovation strategy. The agreement between the EIT and KICs should provide that the degrees and diplomas awarded through the KICs should be awarded by participating universities and may also be labelled as EIT degrees and diplomas. All these activities should be carried out without prejudice to Directive 2005/36/EC on the recognition of professional qualifications⁵.
11. The EIT should establish guidelines for the management of intellectual property, which should foster the use of intellectual property under appropriate conditions. Where activities were funded under the Community Framework Programmes for Research and Technological Development, the rules of those programmes would apply.
12. Appropriate provisions must be made to guarantee the liability and transparency of the EIT. Appropriate rules governing its functioning are adopted in the Statutes of the EIT.
13. In order to guarantee the functional autonomy and independence of the EIT, it should administer its own budget whose revenue should include a contribution from the Community.
14. The EIT should seek to attract financial contribution from the private sector. Therefore, it is expected that industry, the finance and service sectors should contribute significantly to the budget of the EIT and in particular of the budget of the KICs. The KICs should aim at maximising the share of contributions from the private sector.
15. The Community budgetary procedure should be applicable as far as the Community subsidy and any other grants chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.

⁵ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255.

16. This Regulation establishes a financial envelope for the period 2008 to 2013 which is to be the prime reference for the budgetary authority, within the meaning of point 37 of the Inter-Institutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management⁶.
17. The EIT is a body set up by the Communities in the sense of Article 185(1) of Council Regulation (EC, Euratom) No. 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (⁷) and should adopt its financial rules accordingly.
18. The EIT should produce an annual report, outlining the activities conducted in the preceding calendar year and a rolling triennial work programme outlining its planned initiatives. These documents should be transmitted to the Commission, the European Parliament, the Council and the Economic and Social Committee and the Committee of Regions for information.
19. The strategic, long-term priority fields and financial needs for the EIT for a period of 7 years should be laid down in the Strategic Innovation Agenda (hereinafter referred to as "SIA"). Given the importance of the SIA for the Community innovation policy and the resulting political significance of its socio-economic impact for the Community the SIA should be adopted by the European Parliament and the Council on the basis of a Commission proposal prepared in close co-operation with the EIT.
20. It is appropriate that the Commission initiates an independent, external evaluation on the operation of the EIT, in particular, with a view to preparing for the SIA.

⁶ OJ C 139, 14.6.2006, p.1.

⁷ OJ L 248, 16.09.2002, p.1.

21. It is appropriate to pursue a gradual, phased implementation of the EIT in view of its long-term development. Therefore, two to three KICs should be established within a period of 24 months from the appointment of the Governing Board and could include, *inter alia*, such fields as renewable energy and climate change. The selection and designation of further KICs should be enabled after the adoption of the first SIA which should also include detailed modalities on the operation of the EIT, to address the long-term perspective. Moreover, the European Parliament, the Council and the Commission should be entitled to address an opinion on the draft of the EIT's first triennial work programme.

22. Since the objectives of the action cannot be sufficiently achieved by the Member States, and can by reason of scale and of trans-nationality, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality set out in that Article, the Regulation does not go beyond what is necessary to achieve those objectives.

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

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

Article 2

Definitions

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

1. "Innovation" means the process and the outcome of this process by which new ideas respond to societal or economic demand and generate new products, services, or business models that are successfully introduced into an existing market or that are able to create new markets.
2. "Knowledge and Innovation Community" (KIC) means an autonomous partnership of universities, research organisations, companies and other stakeholders in the innovation process in the form of a strategic network based on joint mid- to long-term innovation planning to achieve the EIT challenges, regardless of its precise legal form.
3. "Participating State" means either a Member State of the European Union or another European country having an agreement with the Community on the EIT.
4. "Third Country" means any state which is not a Participating State.
5. "Partner organisation" means any organisation which is member of a KIC and may include in particular: universities, research organisations, public or private companies, financial institutions, regional and local authorities, foundations.
6. "Research organisation" means any public or private legal entity which undertakes research or technological development as one of its main objectives.
7. "University" means any type of higher education institution which, in accordance with national legislation or practice, offers degrees and diplomas at Masters or Doctoral level, irrespective of its denomination in the national context.

8. "Degrees and Diplomas" means degrees and diplomas awarded by participating universities resulting from higher education activities undertaken in a KIC.
9. "Strategic Innovation Agenda" (SIA) means a policy document outlining the priority fields of the EIT for future initiatives, including an overview of the planned research, innovation and higher education activities for a period of 7 years.

Article 3

Objective

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

Article 4

The EIT Bodies

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

3. The detailed provisions regarding the EIT bodies are set out in the Statutes of the EIT, annexed to this Regulation.

Article 5

Tasks

In order to achieve its objective, the EIT shall:

- (a) identify its priority fields;
- (b) raise awareness among potential partner organisations;
- (c) select and designate KICs in the priority fields in accordance with Article 7 and define their rights and obligations by agreement; provide them with appropriate support; apply appropriate quality control measures; continuously monitor and periodically evaluate their activities; and ensure an appropriate level of coordination between them;
- (d) mobilise funds from public and private sources and use its resources in accordance with this Regulation. It shall in particular seek to raise a significant and increasing proportion of its budget from private sources;
- (e) promote the dissemination of good practices for the integration of the knowledge triangle in order to develop a common innovation culture;
- (f) develop its attractiveness in order to become a world class body for excellence in innovation, higher education and research;
- (g) be empowered to establish a Foundation (hereinafter referred to as "the EIT Foundation") with the specific objective of promoting and supporting the activities of the EIT;
- (h) ensure complementarity and synergy between EIT activities and other Community programmes.

Article 6

Knowledge and Innovation Communities

1. Knowledge and Innovation Communities shall undertake in particular:
 - (a) innovation activities and investments with European added value, fully integrating the research and higher education dimensions to achieve a critical mass, stimulating the dissemination and exploitation of results;

- (b) cutting-edge and innovation-driven research in areas of key economic and societal interest and drawing on the results of European and national research, with the potential to strengthen Europe's competitiveness on an international level;
 - (c) education and training activities at masters and doctoral level, which promote the development of innovation-related skills and the improvement of managerial and entrepreneurial skills;
 - (d) dissemination of best practices in the innovation sector with the focus on the development of co-operation between higher education, research, and business, including the service and finance sector.
2. The KICs shall have substantial overall autonomy to define their internal organisation and composition, as well as their precise agenda and working methods. In particular, KICs shall aim to be open to new members, whenever these members add value to the partnership.
 3. The relationship between the EIT and each KIC shall be based on a contractual agreement.

Article 7

Selection of Knowledge and Innovation Communities

1. A partnership shall be selected and designated by the EIT to become a KIC on the basis of a competitive, open and transparent procedure. Detailed specifications and conditions for the selection of the KICs, based on the principles of excellence and innovation relevance, shall be adopted and published by the EIT, and external and independent experts shall be involved in the selection process.
2. The selection of a KIC shall take particular account of:
 - (a) the current and potential innovation capacity within the partnership as well as its excellence in innovation, higher education and research;
 - (b) the partnership's capacity to achieve the goals of the SIA, once it is adopted;
 - (c) the partnership's capacity to ensure sustainable and long-term self-supporting financing including a substantial and increasing contribution from the private sector, industry and services;
 - (d) the participation of organisations active in the triangle of research, higher education and innovation;

- (e) the demonstration of a plan for the management of intellectual property appropriate to the sector concerned and consistent with the EIT principles and guidelines for the management of intellectual property;
 - (f) measures to support the creation of start-ups, spin-offs and SMEs;
 - (g) readiness to interact with other organisations outside the KIC with the aim of sharing good practices and excellence.
3. The minimum condition to form a KIC is the participation of at least three partner organisations, each of which must be established in a Participating State and no two of which may be established in the same Participating State. All these legal entities must be independent of each other, within the meaning of Article 6 of the Regulation (EC) No. 1906/2006⁸.
- A KIC may include partner organisations from third countries, subject to the approval of the Governing Board. The majority of the partner organisations forming a KIC shall be established in the Member States. Universities and companies shall be part of each KIC.

Article 8

Degrees and diplomas

1. Degrees and Diplomas relating to the higher education activities referred to in Article 6 (1) (c) shall be awarded by participating universities in accordance with national rules and accreditation procedures. The agreement between the EIT and the KICs shall provide that these degrees and diplomas may also be labelled EIT-degrees and diplomas.
2. The EIT shall encourage participating universities to:
 - (a) award joint or multiple degrees and diplomas, reflecting the integrated nature of the KICs. However, these may also be awarded by a single university;
 - (b) take into account:
 - i. Community action undertaken in accordance with Articles 149 and 150 of the Treaty;
 - ii. action undertaken in the context of the European Higher Education Area.

⁸ OJ L 391, 30.12.2006, p. 5.

Article 9

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

1. The EIT shall carry out its activities independently of national authorities and external pressures.
2. The activity of the EIT shall be consistent with other action and instruments to be implemented at Community level, in particular in the fields of innovation, research and higher education.
3. The EIT shall also take appropriate account of policies and initiatives at regional, national and intergovernmental levels in order to make use of best practice, concepts and existing resources.

Article 10

Management of Intellectual Property

1. The EIT shall adopt guidelines for the management of intellectual property based on, inter alia, Regulation (EC) No. 1906/2006⁹.
2. On the basis of these guidelines, the partner organisations of each KIC shall conclude an agreement on the management and use of intellectual property.

Article 11

Legal Status

1. The EIT shall be a Community body and shall have legal personality. In each of the Member States, it shall enjoy the widest possible legal capacity accorded to legal persons under national legislation. In particular, it may acquire or dispose of movable and immovable property and be a party to legal proceedings.
2. The Protocol on the Privileges and Immunities of the European Communities shall apply to the EIT.

⁹ OJ L 391, 30.12.2006.

Article 12

Liability

1. The EIT shall be solely responsible for meeting its obligations.
2. The contractual liability of the EIT shall be governed by the relevant contractual provisions and the law applicable to the contract in question.

The Court of Justice of the European Communities shall have jurisdiction pursuant to any arbitration clause contained in a contract concluded by the EIT.

3. In the case of non-contractual liability, the EIT shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or its servants in the performance of their duties. The Court of Justice of the European Communities shall have jurisdiction in any dispute relating to compensation for such damage.
4. Any payment by the EIT for covering the liability referred to in paragraphs 2 and 3 and the costs and expenses incurred in connection therewith shall be considered expenditure of the EIT and shall be covered by the resources of the EIT.
5. The Court of Justice of the European Communities shall have jurisdiction in actions brought against the EIT under the conditions provided for in Articles 230 and 232 of the Treaty.

Article 13

Transparency and access to documents

1. The EIT shall ensure that its activities are conducted with a high level of transparency.
2. The EIT shall make public its rules of procedure, its specific financial rules referred to in Article 21(1) and the detailed specifications and conditions for the selection of the KICs referred to in Article 7 before the first call of proposals for the selection of the first KICs.
3. The EIT shall make public without delay its rolling triennial work programme as well as its annual activity report.
4. Without prejudice to paragraphs 5 and 6, the EIT shall not divulge to third parties confidential information it has received for which confidential treatment has been requested and is justified.

5. The members of the EIT bodies shall be subject to the confidentiality requirement referred to in Article 287 of the Treaty.
The information gathered by the EIT in accordance with the present Regulation shall be subject to Regulation (EC) No. 45/2001¹⁰.
6. Regulation (EC) No. 1049/2001¹¹ shall apply to the documents held by the EIT. The Governing Board shall adopt practical arrangements for applying the said regulation no later than six months after the EIT has been set up.
7. Official documents and publications of the EIT shall be translated in accordance with the Regulation No. 1/1958¹². The required translation services shall be provided by the translation centre for bodies of the European Union.

Article 14

Financial Resources

1. The EIT shall be financed through contributions from the budget of the European Union and other sources.
2. The KICs may be financed through:
 - (a) contributions from companies or private organisations, which shall form a substantial source of funding;
 - (b) contributions from the budget of the European Union;
 - (c) statutory or voluntary contributions from participating States, third countries or public authorities within them;
 - (d) bequests, donations and contributions from individuals, institutions foundations or any other national bodies;
 - (e) revenue generated by the KICs own activities and royalties from Intellectual Property Rights;
 - (f) revenue generated by the EITs activities outcomes or capital endowments, including those managed by the EIT Foundation;
 - (g) contributions from international bodies or institutions;

¹⁰ OJ L 8, 12.01.2001, p. 1.

¹¹ OJ L 145, 31.05.2001, p. 43.

¹² OJ L 17, 6.10.1958, p. 385

- (h) loans and contributions from the European Investment Bank (EIB), including the possibility to use the Risk Sharing Finance Facility (RSFF), pursuant to the eligibility criteria and the selection procedure.

These may include contributions in kind.

- 3. The modalities for accessing funding from the EIT shall be defined in the financial rules of the EIT referred to in Article 21(1).
- 4. The KICs or their partner organisations may apply for Community assistance, in particular in the framework of Community programmes and funds, in accordance with their respective rules. In that case, such assistance shall not be attributed for activities already funded through the Community budget.

Article 15

Programming

- 1. The EIT shall adopt:
 - (a) an annual report by 30 June each year. The report shall outline the activities conducted by the EIT during the preceding year and assess the results with respect to the objectives and timetable set, the risks associated with the activities carried out, the use of resources and the general operation of the EIT;
 - (b) a rolling triennial work programme, containing a statement of its major priorities and planned initiatives, including an estimate of financing needs and sources. The work programme shall be transmitted by the EIT to the Commission, the European Parliament the Council, the European Economic and Social Committee and the Committee for the Regions, for information.

Article 16

Monitoring and evaluation of the EIT

1. The EIT shall ensure that its activities, including those managed through KICs, shall be subject to continuous and systematic monitoring and periodic independent evaluation, to ensure both the highest quality of outcome, scientific excellence and the most efficient use of resources. The outcomes of the evaluation shall be made public.
2. No later than 2011 and every five years after the entry into force of a new Financial Framework, the Commission shall provide for an evaluation of the EIT. This shall be based on an independent external evaluation, and shall examine how the EIT fulfils its mission. It shall cover all activities of the EIT and the KICs and shall assess the effectiveness, sustainability, efficiency and relevance of the activities pursued and their relationship with the Community policies. It shall take into account the views of stakeholders, at both European and national level.
3. The Commission shall forward the results of the evaluation, together with its own opinion, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The Governing Board shall take due account of the findings of evaluations in the programmes and operations of the EIT.

Article 17

Strategic Innovation Agenda

1. A proposal for a Strategic Innovation Agenda shall be drawn up by the Commission on the basis of a contribution provided by the EIT two years before the start of the next period of the Financial Framework.
2. The SIA shall define long-term priority fields for the EIT and shall include an assessment of its socio-economic impact and its capacity to generate the best innovation added-value. The SIA shall take into account the results of the monitoring and evaluation of the EIT as referred to in Article 16.
3. The SIA shall include an estimate of financial needs and sources in view of the future operation long-term development and funding of the EIT. It shall also contain an indicative financial plan covering the period of the Financial Framework.

4. Acting on a proposal from the Commission, the SIA shall be adopted by the European Parliament and the Council in accordance with the Treaty.

Article 18

Transitional provisions

1. The Governing Board shall submit the draft of the first rolling triennial work programme, referred to in Article 15, the Commission, the Council and the European Parliament within 12 months after its appointment. The Commission, the European Parliament and the Council may address an opinion to the Governing Board on any subject covered in the draft of the first triennial work programme within three months from the day on which they received it. Where such opinions are addressed to the EIT, the Governing Board shall reply within a period of 3 months, indicating any adjustments in its priorities and planned activities.
2. Within a period of 24 months from the date of appointment of the Governing Board, the EIT shall select and designate two to three KICs; in accordance with the criteria and procedures set out in Article 7.
3. The Commission shall submit the proposal for the First Strategic Innovation Agenda on the basis of the draft provided by the EIT, to the European Parliament and the Council before the end of 2011.

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

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

Article 19

Budgetary commitments

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

Article 20

Preparation and adoption of the annual budget

1. The expenditure of the EIT shall include the staff, administrative, infrastructure and operational expenses.
2. The financial year shall correspond to the calendar year.
3. The Director shall draw up an estimate of the revenue and expenditure of the EIT for the following financial year and shall forward it to the Governing Board.
4. Revenue and expenditure shall be in balance.
5. The Governing Board shall adopt the draft estimate accompanied by the preliminary rolling triennial work programme, and forward them by 31 March to the Commission.
6. On the basis of the estimate, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the amount of the subsidy to be charged to the general budget.
7. The budgetary authority shall authorise the appropriations for the subsidy to the EIT.
8. The Governing Board adopts the EIT budget, which shall become final following the final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.
9. Any substantial modification of the budget shall follow the same procedure.

Article 21

Implementation and control of the budget

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

Article 22

Protection of the financial interests of the Community

1. With a view to combating fraud, corruption and other illegal acts, Regulation (EC) No. 1073/1999¹³) shall apply to the EIT in its entirety.
2. The EIT shall accede to the Inter-Institutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF)¹⁴. The Governing Board shall formalise this accession and adopt the necessary measures to help OLAF carry out internal investigations.
3. All decisions adopted and contracts concluded by the EIT, shall provide explicitly that OLAF and the Court of Auditors may carry out on-the-spot inspections of the documents of all contractors and sub-contractors which have received Community funds, including at the premises of the final beneficiaries.
4. The provisions set out in paragraphs (1), (2) and (3) shall apply, *mutatis mutandis*, to the EIT Foundation.

¹³ OJ L 136, 31.05.1999, p. 1.

¹⁴ OJ L 136, 31.05.1999, p. 15.

Article 23

Statutes

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

Article 24

Entry into Force

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

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

Done at Brussels,

For the Council

The President

For the European Parliament

The President

Statutes of the European Institute of Technology

*Article 1**Composition of the Governing Board*

1. The Governing Board shall consist both of appointed members providing a balance between those with business experience and those with higher education/research experience (hereafter: "appointed members") and members elected by and from among the innovation, research, higher education, technical and administrative staff, students and doctoral candidates of the EIT and the KICs (hereafter "representative members").
2. There shall be 15 appointed members. They shall have a 6-year non-renewable term of office. They shall be appointed by the Commission on the basis of proposals from an Identification Committee. This Identification Committee will be composed of 4 independent high level experts appointed by the Commission.
3. The Commission shall have regard to the balance between innovation, business, research and higher education experience as well as to gender balance and an appreciation of the innovation, research and higher education environments across the Union.
4. One third of the appointed members shall be replaced every two years. An appointed member who has served for a period of less than 4 years shall be eligible for renewal.

During a transitional period, 10 appointed members of the initial Governing Board shall be chosen by lot to serve for a 4-year term of office. At the end of the initial 4-year period, 5 of the 10 newly appointed members shall be chosen by lot to serve for a 4-year term of office. The Chairperson of the Governing Board is not part of this transitional process.

5. There shall be 4 representative members. They shall have a 3-year term of office, renewable once. Their term of office shall cease if they leave the EIT or a KIC. They shall be replaced through the same process for the remainder of the mandate.

6. The conditions and modalities for election and replacement of the "representative members" shall be approved by the Governing Board on the basis of a proposal from the Director before the first KIC is in operation. This mechanism shall ensure an appropriate representation of the diversity and shall take into account the evolution of the EIT and the KICs.
7. In the event that a member of the Governing Board is unable to terminate his mandate, a substitute member shall be appointed or elected by the same procedure as the incapacitated member in order to complete his mandate.

Article 2

Responsibilities of the Governing Board

1. The Governing Board members shall act in the interests of the EIT, safeguarding its goals and mission, identity and coherence.
2. The Governing Board shall, in particular:
 - (a) define the EIT strategy as enshrined in the Strategic Innovation Agenda (SIA) , once it is adopted, the triennial rolling work programme, its budget, its annual accounts and balance-sheet and its annual activity report on the basis of a proposal from the Director;
 - (b) specify the priority fields in which to establish the KICs;
 - (c) provide a contribution in view of the preparation of the SIA;
 - (d) draw up detailed specifications and terms of references on the operation of the EIT in the framework of the SIA, once it is adopted, including criteria and procedures for the financing, monitoring and evaluating of the activities of the KICs;
 - (e) select and designate a partnership as a KIC or withdraw the designation if necessary;
 - (f) ensure continuing evaluation of the activities of KICs;
 - (g) adopt its rules of procedure, including those for the selection of the KICs, those for the Executive and Audit Committees, as well as the specific financial rules of the EIT;
 - (h) shall define, with the Commission's agreement, appropriate honoraria for members of the Governing Board and of the Executive and Audit Committees; these honoraria shall be benchmarked against similar provision in the Member States;

- (i) adopt a procedure for choosing the Executive Committee, the Audit Committee and the Director;
 - (j) appoint the Director, the Accounting Officer, and the members of the Executive Committee and the Audit Committee;
 - (k) establish where appropriate advisory groups which may have a defined duration;
 - (l) promote the EIT globally, so as to raise its attractiveness and make it an world class body for excellence in higher education, research and innovation;
 - (m) adopt a code of good conduct regarding conflicts of interest;
 - (n) define principles and guidelines for the management of intellectual property rights;
 - (o) be empowered to establish a Foundation (hereinafter referred to as "the EIT Foundation") with the specific objective of promoting and supporting the activities of the EIT;
 - (p) ensure complementarity and synergy between EIT activities and other Community programmes;
 - (q) decide on EIT's language regime, taking into account the existing principles on multilingualism and the practical requirements of its operations.
3. The Governing Board may delegate specific tasks to the Executive Committee.
4. The Governing Board shall elect its Chairperson from among the appointed members. The mandate of the Chairperson shall be for a period of 3 years, renewable once.

Article 3

Functioning of the Governing Board

1. The Governing Board shall adopt decisions by simple majority of all its members.

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

2. The Governing Board shall meet in ordinary session at least three times a year, and in extraordinary session when convened by its Chairperson or on request of at least one third of its members.
3. As a transitional provision, the Governing Board shall consist exclusively of appointed members until elections for representative members can be held, after the first KIC has been established.

Article 4

The Executive Committee

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

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

2. The Executive Committee shall meet on a regular basis as convened by its Chairperson or on the request of the Director.
3. The Executive Committee takes its decisions by simple majority of all its members.
4. The Executive Committee shall:
 - (a) prepare the meetings of the Governing Board;
 - (b) oversee the implementation of the EIT's Strategic Innovation Agenda, once it is adopted, and the rolling triennial work programme;
 - (c) oversee the selection procedure for KICs;
 - (d) take any decisions delegated to it by the Governing Board.

Article 5
The Director

1. The Director shall be a person with expertise and high reputation in the areas where the EIT operates. He/She shall be appointed by the Governing Board for a term of office of 4 years. The Governing Board may extend that term of office once by 4 years when it considers that the interests of the EIT are best served by so doing.
2. The Director shall be responsible for the day-to-day management of the EIT and be its legal representative. He/She shall be accountable to the Governing Board to which he/she will report on an ongoing basis on the development of the EIT activities.
3. The Director shall in particular:
 - (a) support the Governing Board and the Executive Committee in their work and provide the secretariat for their meetings;
 - (b) prepare a draft SIA, a draft rolling triennial work programme, the annual report and the annual budget for submission to the Governing Board through the Executive Committee;
 - (c) administer the selection process for KICs; and ensure that the various stages of that process are carried out in a transparent and objective manner;
 - (d) organise and manage the activities of the EIT;
 - (e) be responsible for administrative and financial matters, including the implementation of the EIT budget. In this the Director shall take due account of advice received from the Audit Committee;
 - (f) be responsible for all staff matters;
 - (g) submit the draft annual accounts and balance sheet to the Audit Committee, and subsequently to the Governing Board, through the Executive Committee;
 - (h) ensure that the obligations of the EIT with regard to the contracts and agreements it concludes are met;
 - (i) provide the Executive Committee and the Governing Board with all information necessary for the performance of their functions.

Article 6
The Audit Committee

1. The Audit Committee shall consist of 5 persons appointed for a period of 4 years by the Governing Board after consultation of the Commission from external advisors with appropriate expertise in the audit and financial control of academic, research and business organisations.
2. The Audit Committee shall perform its duties in complete independence from the other bodies of the EIT.
3. The Audit Committee shall elect its Chairperson.
4. The Audit Committee shall review the provisional accounts and issue recommendations to the Governing Board and the Director.
5. The functions entrusted by Article 185(3) of Regulation (EC, Euratom) No. 1605/2002 to the Commission's internal auditor shall be carried out under the responsibility of the Audit Committee, which shall make appropriate provision.

Article 7
Staff of the EIT

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

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

3. The EIT shall exercise, with regards to its staff, the powers which are devolved to the authority authorized to conclude the contracts with the staff members.

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

Article 8

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

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

Article 9

Duration, Continuation and Termination of a Knowledge and Innovation Community

1. Subject to the outcomes of periodic evaluations and to the specificities of particular fields, a KIC shall normally have a time-frame of 7-15 years.
2. The Governing Board may decide to extend the operation of a KIC beyond the period initially set if this is the most appropriate way to achieve the objective of the EIT.
3. In the event that evaluations of a KIC show inadequate results, the Governing Board shall take appropriate measures including reduction, modification or withdrawal of its financial support or termination of the agreement.

Article 10

Implementation and control of the budget

1. By 1 March at the latest following each financial year, the EIT's accounting officer shall communicate the provisional accounts together with a report on the budgetary and financial management to the Audit Committee, the Commission's accounting officer and the Court of Auditors.
2. On receipt of the Audit Committee's opinion and the Court of Auditors' observations on the EIT's provisional accounts, the Director shall draw up the EIT's final accounts under his/her own responsibility and submit them to the Governing Board for an opinion.

3. The Governing board shall deliver an opinion on the EIT's final accounts.
4. By 1 July of the following year at the latest, the Director shall send the final accounts, together with the opinion of the Governing Board, to the Commission, the Court of Auditors, the European Parliament and the Council.
5. The Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He/She shall also send this reply to the Governing Board.

Article 11
Winding up of the EIT

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

DRAFT DECLARATIONS TO BE ENTERED INTO THE MINUTES OF THE "25 JUNE COMPETITIVENESS COUNCIL":

"The Council and the Commission declare that the EIT is a Community body, which has a *sui generis* governance structure designed to facilitate business involvement.

In this regard, none of the provisions of this Regulation, nor of the Statute of the Governing Board, can be held to be a precedent for bodies which may be created in future by the Community".

"The Council declares that the seat of the EIT should be decided not later than 12 months after this Regulation enters into force".
