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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	12 July 2013
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2013) 506 final
Subject:	Proposal for a COUNCIL REGULATION on the Fuel Cells and Hydrogen 2 Joint Undertaking

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Delegations will find attached document COM(2013) 506 final.

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EUROPEAN  
COMMISSION

Brussels, 10.7.2013  
COM(2013) 506 final

2013/0245 (NLE)

Proposal for a

**COUNCIL REGULATION**

**on the Fuel Cells and Hydrogen 2 Joint Undertaking**

(Text with EEA relevance)

{SWD(2013) 260 final}

{SWD(2013) 261 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### 1.1. General context

One of the main aims of Horizon 2020, the Framework Programme for Research and Innovation covering the period 2014-2020, is to strengthen European industry through actions supporting research and innovation across a range of industrial sectors. In particular, it provides for the creation of public-private partnerships that will contribute to tackling some of the key challenges Europe is facing.

This proposal provides for a prolongation of the Joint Undertaking in the field of Fuel Cells and Hydrogen launched under Seventh Framework Programme, in line with the Commission Communication 'Public-private partnerships, in Horizon 2020: a powerful tool to deliver on innovation and growth in Europe'<sup>1</sup>, Commission Communications 'Energy 2020 - A strategy for competitive, sustainable and secure energy'<sup>2</sup> and 'Clean Power for Transport: A European alternative fuels'<sup>3</sup>.

#### 1.2. Reasons and objectives for a JU in the area of Fuel Cells and Hydrogen

A JU in the area of Fuel Cells and Hydrogen is needed:

- to address two key challenges for the EU - to ensure the energy security of supply and to boost/maintain competitiveness;
- to support EU policies on sustainable energy and transport, climate change, the environment and industrial competitiveness as embodied in the Europe 2020 strategy for growth, and help achieve the EU's overarching objective of smart, sustainable and inclusive growth;
- to tackle a series of obstacles to effective research and innovation in this area: high risks, high cost of R&D, knowledge spillovers, market failures. Industry on its own only cannot invest in view of these obstacles, and hence public support is needed;
- to counteract the fragmentation of the Member States programmes and achieve the coordinated, long-term, large-scale, transnational, cross-sectoral effort required;
- to help industry to set a long-term research and innovation agenda, create the necessary critical mass, leverage private investment, provide stable funding, facilitate knowledge sharing, reduce risk, lower costs and reduce time to market.

The general objective of the FCH 2 Joint Undertaking for the period of 2014-2024 is to develop a strong, sustainable and globally competitive fuel cells and hydrogen sector in the Union, in particular to:

- reduce the production cost of fuel cell systems to be used in transport applications, while increasing their lifetime to levels competitive with conventional technologies,

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<sup>1</sup> COM(2013) [...]

<sup>2</sup> COM(2010) 639 final of 10.11.2010

<sup>3</sup> COM (2013) 17 final of 24.01.2013

- increase the electrical efficiency and the durability of the different fuel cells used for power production, while reducing costs, to levels competitive with conventional technologies,
- increase the energy efficiency of production of hydrogen from water electrolysis while reducing capital costs, so that the combination of the hydrogen and the fuel cell system is competitive with the alternatives available in the marketplace, and
- demonstrate on a large scale the feasibility of using hydrogen to support integration of renewable energy sources into the energy systems, including through its use as a competitive energy storage medium for electricity produced from renewable energy sources.

### **1.3. Building on past experience**

The proposed Joint Undertaking 2 builds upon the achievements of the previous one under FP7. The main achievements of the existing FCH Joint Undertaking have so far been the creation of strong partnership, the leveraging of public and private funding and the strong involvement of industry (in particular SMEs). Also, the existing FCH Joint Undertaking has put in place a significant project portfolio of strategic importance. For both energy and transport applications substantial technological progress took place. Market introduction has been achieved for some early applications such as forklifts and small back-up power units. It has also encouraged industry, Member States and the research community to commit more of their own resources. Large industry and SME participation is stable and significantly higher than in FP7-Energy.

The first interim evaluation, finalised in 2011 with the help of independent experts, concluded that the Joint Undertaking approach generally succeeds to enhance public-private activities in technology development and demonstration, and provides stability for the R&D community. The overall technical objectives of the FCH Joint Undertaking were judged ambitious and competitive.

Although the FCH sector has reached an advanced stage of innovation it is still a pre-mature and vulnerable one. Carrying FCH technologies from the drawing board to full deployment in a global competitive environment requires a substantial increase in public and private R&D investment in Member States as well as in Associated Countries. The public means available in the EU for FCH research, both in the Member States and in the Framework Programme will not suffice to cover the estimated financial resources needed to implement the FCH Technology Roadmap for the period 2014-2020<sup>4</sup>. But an ambitious public policy can provide the required positive environment to leverage the private investment necessary to complement the public support and fulfil the R&D needs.

The proposal for the continuation of the FCH Joint Undertaking includes provisions aiming at simplification and flexibility of operations.

## **2. CONSULTATIONS WITH THE STAKEHOLDERS AND IMPACT ASSESSMENT**

### **Results of consultations**

- Stakeholder groups representing the industry and research communities, the Member States and the general public have been consulted on the continuation of FCH Joint Undertaking under Horizon 2020. Several workshops and ad-hoc meetings were organised

<sup>4</sup> [http://ec.europa.eu/research/consultations/fch\\_h2020/fch-f2020-consultation-results.pdf](http://ec.europa.eu/research/consultations/fch_h2020/fch-f2020-consultation-results.pdf)

in the course of 2012 to discuss priorities for research on fuel cells and hydrogen, and define the best mechanism to implement the research & innovation programme at European level. In the second part of 2012, a stakeholder survey was sent to all the beneficiaries of the FCH Joint Undertaking and 154 responses were received, including 46 from the Industry Grouping. 93% of the beneficiaries that responded indicated that they favour the continuation of the FCH Joint Undertaking. Moreover, 70% of the members of the Industry Grouping have seen their turnover on FCH increase since 2007 and 70% have raised their expenditures on R&D. About half of the responding members reported increased expenditures on R&D as a direct result of the establishment of the JU.

- A public consultation was conducted between July and October 2012 and 127 responses were received. Most respondents agree on the fact that FCH technology will play a notable role in the future EU low-carbon energy and transport sectors (98% of respondents), for the EU energy security of supply (94%) and for the EU industrial competitiveness (95%). The results of the public consultations concerning a Public-Private Partnership (PPP) in Fuel Cell and Hydrogen under Horizon 2020 are available on-line at: [http://ec.europa.eu/research/consultations/fch\\_h2020/fch-f2020-consultation-results.pdf](http://ec.europa.eu/research/consultations/fch_h2020/fch-f2020-consultation-results.pdf)

### **Impact Assessment**

The proposed Regulation has been subject to a Commission Impact Assessment which is attached to the proposal.

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

### **• Summary of the proposed action**

The proposal consists of a Council Regulation on the Fuel Cells and Hydrogen 2 Joint Undertaking. The FCH Joint Undertaking was initially established by Council Regulation (EC) No 521/2008 of 30 May 2008 which is to be repealed with effect from 1 January 2014.

### **• Legal basis**

The proposal is based on Article 187 of the Treaty on the Functioning of the European Union.

The Rules for Participation and Dissemination of Horizon 2020 will apply.

### **• Subsidiarity and proportionality**

The objectives of the proposal cannot be sufficiently achieved by the Member States because the scale of the challenge exceeds the capacity of any Member State to act alone. Significant differences existing among national programmes, their fragmentation and sometimes overlapping call for a more efficient intervention at European Union level. The pooling and coordination of research and development efforts at EU level stand a better chance of success, given the trans-national nature of the infrastructure and technologies to be developed, and also the need to achieve a sufficient mass of resources. The intervention of the European Union will help to rationalise research programmes and ensure inter-operability of the developed systems not only through common pre-normative research to support the preparation of standards but also through the *de facto* standardisation which will arise from the close research cooperation and the trans-national demonstration projects. This standardisation will open a wider market and promote competition. The scope of the proposal should encourage the Member States to pursue complementary initiatives at national level, in the spirit of reinforcing the European Research Area - indeed the very intention

of the Joint undertaking is to leverage these national and regional programmes to make best use of the combined efforts.

In accordance with the principle of proportionality, the provisions of this regulation do not go beyond what is necessary to achieve its objectives.

- **Choice of instrument**

Proposed instrument: regulation.

Other means would not be adequate for the following reason:

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

#### **4. BUDGETARY IMPLICATION**

The EU budget, totalling up to EUR 700 million<sup>5</sup> (including EFTA), will come from the ‘Secure, clean and efficient energy’ and the ‘Smart, green and integrated transport’ H2020 societal challenges budget.

The administrative costs of the FCH 2 Joint Undertaking shall not exceed EUR 40 million and shall be covered in cash, on an annual basis, divided equally between the Union and the Members other than the Union. The Union shall contribute with 50%, the Industry Grouping with 43% and the Research Grouping with 7%.

The research activities shall be funded by the EU and the constituent entities of the Members other than the Union participating in the indirect actions, with the EU contribution paid in cash and the contributions from the constituent entities of the other Members made in-kind within the indirect actions.

#### **5. OPTIONAL ELEMENTS**

- **Transition period**

Following the adoption of the draft Regulation on Fuel Cells and Hydrogen, the Regulation 521/2008 will be repealed; however actions initiated under Regulation (EC) No 521/2008 and financial obligations related to those actions shall continue to be governed by that Regulation until their completion.

- **Review**

The European Commission will present an annual report on the progress achieved by the FCH 2 Joint Undertaking. The European Commission will also perform a mid-term review and a final review at the termination of the Joint Undertaking.

Discharge for the implementation of the Union contribution shall be part of the discharge given by the European Parliament, upon recommendation of the Council, to the Commission in accordance with the procedure provided for in Article 319 of the Treaty.

- **Review/revision/sunset clause**

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<sup>5</sup> in current prices

The proposal includes a review clause.

The proposal includes a sunset clause.

Proposal for a

**COUNCIL REGULATION**

**on the Fuel Cells and Hydrogen 2 Joint Undertaking**

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 187 and the first paragraph of Article 188 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament<sup>6</sup>

Having regard to the opinion of the Economic and Social Committee<sup>7</sup>,

Whereas:

- (1) Public-private partnerships in the form of Joint Technology Initiatives were initially provided for 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>8</sup>.
- (2) Council Decision 2006/971/EC of 19 December 2006 concerning the Specific Programme 'Cooperation' implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013)<sup>9</sup> identified specific public-private partnerships to be supported, including a public-private partnership in the specific area of the Fuel Cells and Hydrogen Joint Technology Initiative.
- (3) Europe 2020 Strategy<sup>10</sup> underscores the need to develop favourable conditions for investment in knowledge and innovation so as to achieve smart, sustainable and inclusive growth in the Union. Both European Parliament and Council have endorsed this strategy.
- (4) Regulation (EU) No .../2013 of the European Parliament and of the Council of ... 2013 establishing Horizon 2020 - The Framework Programme for Research and Innovation

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<sup>6</sup> OJ ... [EP opinion]

<sup>7</sup> OJ ... [ESC opinion]

<sup>8</sup> OJ L 412, 30.12.2006, p.1

<sup>9</sup> OJ L 400, 30.12.2006, p.86

<sup>10</sup> COM(2010) 2020 final.



(2014-2020)<sup>11</sup> aims to achieve a greater impact on research and innovation by combining Horizon 2020 Framework Programme and private sector funds in public-private partnerships in key areas where research and innovation can contribute to Union's wider competitiveness goals and help tackle societal challenges. The involvement of the Union in those partnerships may take the form of financial contributions to joint undertakings established on the basis of Article 187 of the Treaty under Decision No 1982/2006/EC.

- (5) In accordance with Decision (EU) No [...] /2013 of the Council of [...] 2013 establishing the Specific Programme implementing Horizon 2020 (2014-2020)<sup>12</sup> further support should be provided to joint undertakings established under Decision (EU) No 1982/2006/EC under the conditions specified in Decision (EU) No [...] /2013.
- (6) The Fuel Cells and Hydrogen Joint Undertaking, set up by Regulation (EC) No. 521(2008) of the Council of 30 May 2008 setting up the Fuel Cells and Hydrogen Joint Undertaking<sup>13</sup> has demonstrated the potential of hydrogen as an energy carrier, and of fuel cells as energy converters, to offer a pathway for clean systems that reduce emissions, enhance energy security, and stimulate the economy. The interim evaluation of the FCH Joint Undertaking<sup>14</sup> has shown that the Joint Undertaking has served as a platform for creating of a strong partnership, for leveraging public and private funding and for the strong involvement of industry, in particular SMEs. The also recommended increase in the activities on hydrogen production, storage and distribution has been taken up in the new objectives. Its research area should therefore continue to be supported with the aim of developing, to the point of market introduction, a portfolio of clean, efficient and affordable solutions.
- (7) Continued support for the Fuel Cells and Hydrogen research programme should also take into account the experience acquired from the operations of the Fuel Cells and Hydrogen Joint Undertaking including the results of its first interim evaluation, the results of stakeholders' recommendations<sup>15</sup>, and be implemented using a more fit-for-purpose structure and rules in order to enhance efficiency and to ensure simplification. To this effect, the Fuel Cells and Hydrogen 2 Joint Undertaking should adopt financial rules specific to its needs in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union<sup>16</sup>.
- (8) The Members other than the Union of the FCH Joint Undertaking have expressed in writing their agreement for the research activities in the area of the FCH Joint Undertaking to be pursued within a structure better adapted to the nature of a public-private partnership. It is appropriate that the Members other than the Union to the Fuel Cells and Hydrogen 2 Joint Undertaking accept the Statutes set out in Annex to this Regulation by means of a letter of endorsement.

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<sup>11</sup> OJ ... [H2020 FP]

<sup>12</sup> OJ ... [H2020 SP].

<sup>13</sup> OJ L153/1, 12.6.2008, p. 1-20, as amended by Council Regulation 1183/2011 of 14.11.2011, OJ L302, 19.11.2011, p. 3-4.

<sup>14</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Partnering in Research and Innovation', COM(2011) 572 final, 21.09.2011

<sup>15</sup> 'Trends in investments, jobs and turnover in the Fuel cells and Hydrogen sector' – results of stakeholders' consultation: <http://www.fch-ju.eu/page/publications>

<sup>16</sup> OJ L 298, 26.10.2012, p. 84.

- (9) In order to achieve its objectives, the Fuel Cells and Hydrogen 2 Joint Undertaking should provide financial support mainly in the form of grants to participants following open and competitive calls for proposals.
- (10) Contributions from Members other than the Union and their constituent entities should not only be limited to the administrative costs of the Fuel Cells and Hydrogen 2 Joint Undertaking and to the co-financing required to carry out research and innovation actions supported by the Fuel Cells and Hydrogen 2 Joint Undertaking.
- (11) Their contributions should also relate to additional activities to be undertaken by the Members other than the Union or their constituent entities, as specified in an additional activities plan. In order to get a proper overview of the leverage effect those additional activities should represent contributions to the broader FCH Joint Technology Initiative.
- (12) The specificities of the Fuel Cells and Hydrogen sector, in particular that it is still a premature sector, without clear returns of investments and its main benefits being societal ones, justify that the Union contribution is higher than the contribution from the Members other than the Union. In order to encourage broader representativeness of the groupings that are members of the Fuel Cells and Hydrogen 2 Joint Undertaking and support participation of new constituent entities in the Joint Technology Initiative, the Union contribution should be divided in two instalments, the second of which should be made conditional upon additional commitments, in particular from new constituent entities.
- (13) In assessing the overall impact of the Fuel Cells and Hydrogen Joint Technology Initiative, the investments from all legal entities other than the Union contributing to the objectives of the Fuel Cells and Hydrogen Joint Technology Initiative will be taken into account. These overall investments to the Fuel Cells and Hydrogen Joint Technology Initiative are expected to amount to at least EUR 700 million.
- (14) Participation in indirect actions funded by the Fuel Cells and Hydrogen 2 Joint Undertaking should comply with Regulation (EU) No ... /2013 of the European Parliament and of the Council of ... 2013 laying down the rules for the participation and dissemination in 'Horizon 2020 - the Framework Programme for Research and Innovation' <sup>17</sup>.
- (15) The Union financial contribution should be managed in accordance with the principle of sound financial management and with the relevant rules on indirect management set out in Regulation (EU, Euratom) No 966/2012 and Commission delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 <sup>18</sup>.
- (16) Audits of recipients of Union funds under this Regulation should be carried out in such a manner that administrative burden is reduced, in compliance with Regulation (EU) No .../2013 [the Horizon 2020 Framework Programme].
- (17) The financial interests of the Union and of the other members of the Fuel Cells and Hydrogen 2 Joint Undertaking should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties in accordance with Regulation (EU, Euratom) No 966/2012.

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<sup>17</sup> OJ ... [H2020 RfP]

<sup>18</sup> OJ L 362, 31.12.2012, p.1

- (18) The Commission's internal auditor should exercise the same powers over the FCH 2 Joint Undertaking as those exercised in respect of the Commission.
- (19) In accordance with Article 287(1) of the Treaty, the constituent instrument of bodies, offices or agencies set up by the Union may preclude the examination of the accounts of all revenue and expenditure of those bodies, offices or agencies by the Court of Auditors. In accordance with Article 60(5) of Regulation (EU, Euratom) No 966/2012, the accounts of the bodies under Article 209 Regulation (EU, Euratom) No 966/2012 are to be examined by an independent audit body which is to give an opinion inter alia on the reliability of the accounts and the legality and regularity of the underlying transactions. Avoidance of duplication of the examination of the accounts justifies that the accounts of the Fuel Cells and Hydrogen 2 Joint Undertaking should not be subject to the examination by the Court of Auditors.
- (20) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty on the European Union, the objectives of the Fuel Cells and Hydrogen 2 Joint Undertaking in strengthening industrial research and innovation across the Union cannot be sufficiently achieved by the Member States and can therefore, by reason of avoiding duplication, retaining critical mass and ensuring that public financing is used in an optimal way, be better achieved by the Union; this Regulation confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose;
- (21) The FCH Joint Undertaking was set up for a period up to 31 December 2017. The Fuel Cells and Hydrogen 2 Joint Undertaking should provide continued support to the Fuel Cells and Hydrogen research programme by enlarging the scope of the activities under a modified set of rules. The transition from the FCH Joint Undertaking to the Fuel Cells and Hydrogen 2 Joint Undertaking should be aligned and synchronized with the transition from the Seventh Framework Programme to the Horizon 2020 Framework Programme to ensure optimal use of the funding available for research. In the interest of legal certainty and clarity, Council Regulation (EC) No. 521/2008 should therefore be repealed and transitional provisions should be set out.

HAS ADOPTED THIS REGULATION:

*Article 1*  
***Establishment***

1. For the implementation of the Joint Technology Initiative on Fuel Cells and Hydrogen, a joint undertaking within the meaning of Article 187 of the Treaty (hereinafter 'FCH 2 Joint Undertaking'), is established for a period from 1 January 2014 until 31 December 2024.
2. The FCH 2 Joint Undertaking shall replace and succeed the FCH Joint Undertaking as established by Council Regulation (EC) No 521/2008.
3. The FCH 2 Joint Undertaking shall constitute a body entrusted with the implementation of a public-private partnership referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and the Council<sup>19</sup>.

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<sup>19</sup> OJ L 298, 26.10.2012, p. 1.

4. The FCH 2 Joint Undertaking shall have legal personality. In each of the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under the laws of those Member States. It may, in particular, acquire or dispose of movable and immovable property and may be party to legal proceedings.
5. The seat of the FCH 2 Joint Undertaking shall be located in Brussels, Belgium.
6. The Statutes of the FCH 2 Joint Undertaking are set out in the Annex.

*Article 2*  
**Objectives**

1. The FCH 2 Joint Undertaking shall have the following objectives:
  - (a) to contribute to the implementation of Regulation (EU) No .../2013 of the European Parliament and of the Council of ... 2013 establishing the Horizon 2020 Framework Programme, and in particular part ... of Decision No .../2013/EU of the Council of ... 2013 establishing the Horizon 2020 Specific Programme;
  - (b) to contribute to the objectives of the Joint Technology Initiative on Fuel Cells and Hydrogen, through the development of a strong, sustainable and globally competitive fuel cells and hydrogen sector in the Union.
2. It shall, in particular:
  - reduce the production cost of fuel cell systems to be used in transport applications, while increasing their lifetime to levels competitive with conventional technologies,
  - increase the electrical efficiency and the durability of the different fuel cells used for power production, while reducing costs, to levels competitive with conventional technologies,
  - increase the energy efficiency of production of hydrogen from water electrolysis while reducing capital costs, so that the combination of the hydrogen and the fuel cell system is competitive with the alternatives available in the marketplace, and
  - demonstrate on a large scale the feasibility of using hydrogen to support integration of renewable energy sources into the energy systems, including through its use as a competitive energy storage medium for electricity produced from renewable energy sources.

*Article 3*  
**Union financial contribution**

1. The maximum Union contribution, including EFTA appropriations, to the FCH 2 Joint Undertaking to cover administrative costs and operational costs shall be EUR 700 million, which shall consist of:
  - (c) up to EUR 600 million corresponding to the contribution committed in accordance with Article 4(1),

- (d) up to EUR 100 million to match any additional contribution committed above the minimum amount specified in Article 4(1).

The contribution shall be paid from the appropriations in the general budget of the Union allocated to the Horizon 2020 Specific Programme implementing the Horizon 2020 Framework Programme in accordance with the relevant provisions of Article 58(1)(c)(iv) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 for bodies referred to in Article 209 of that Regulation.

- 2. The arrangements for the Union financial contribution shall be set out in a delegation agreement and annual transfer of funds agreements to be concluded between the Commission, on behalf of the Union, and the FCH 2 Joint Undertaking.
- 3. The delegation agreement referred to in paragraph 2 shall address the elements set out in Article 58(3) and Articles 60 and 61 of Regulation (EU, Euratom) No 966/2012 and in Article 40 of Commission delegated Regulation (EU) No 1268/2012 as well as inter alia the following:
  - (a) the requirements for the FCH 2 Joint Undertaking's contribution regarding the relevant performance indicators referred to in Annex II to Decision No .../EU [the Specific Programme implementing the Horizon 2020 Framework Programme];
  - (b) the requirements for the FCH 2 Joint Undertaking's contribution in view of the monitoring referred to in Annex III to Decision No .../EU [the Specific Programme implementing the Horizon 2020 Framework Programme];
  - (c) the specific performance indicators related to the functioning of the FCH 2 Joint Undertaking;
  - (d) the arrangements regarding the provision of data necessary to ensure that the Commission is able to meet its dissemination and reporting obligations;
  - (e) the use of and changes to human resources, in particular recruitment by function group, grade and category, the reclassification exercise and any changes to the number of staff members.

#### *Article 4*

#### ***Contributions of Members other than the Union***

- 1. The Members of the FCH 2 Joint Undertaking other than the Union shall make or arrange for their constituent entities to make a total contribution of at least EUR 400 million over the period defined in Article 1.
- 2. The contribution referred to in paragraph 1 shall consist of the following:
  - (a) contributions to the FCH 2 Joint Undertaking as laid down in clause 13(2) and clause 13(3)(b) of the Statutes contained in the Annex.
  - (b) in-kind contributions of at least EUR 300 million over the period defined in Article 1 by the Members other than the Union or their constituent entities, consisting of the costs incurred by them in implementing additional activities outside the work plan of the FCH 2 Joint Undertaking contributing to the objectives of the FCH Joint Technology Initiative. Other Union funding programmes may support those costs in

compliance with the applicable rules and procedures. In such cases, Union financing shall not substitute for the in kind contributions from the Members other than the Union or their constituent entities.

Those costs referred to in point (b) shall not be eligible for financial support by the FCH 2 Joint Undertaking. The corresponding activities shall be set out in an annual additional activities plan that shall indicate the estimated value of those contributions.

3. The Members of the FCH 2 Joint Undertaking other than the Union shall report each year by 31 January to the Governing Board of the FCH 2 Joint Undertaking on the value of the contributions referred to in paragraph 2 made in each of the previous financial years.
4. For the purpose of valuing the contributions referred to in point (b) of paragraph 2 and clause 13(3)(b) of the Statutes contained in the Annex, the costs shall be determined according to the usual cost accounting practices of the entities concerned, to the applicable accounting standards of the country where each entity is established, and to the applicable International Accounting Standards / International Financial Reporting Standards. The costs shall be certified by an independent external auditor appointed by the entity concerned. The valuation of the contributions shall be verified by the FCH 2 Joint Undertaking. In case of remaining uncertainties, it may be audited by the FCH 2 Joint Undertaking.
5. The Commission may terminate, proportionally reduce or suspend the Union financial contribution to the FCH 2 Joint Undertaking or trigger the winding up procedure referred to in clause 21(2) of the Statutes contained in the Annex if those Members or their constituent entities do not contribute, contribute only partially or contribute late with regard to the contributions referred to in paragraph 2.

#### *Article 5* **Financial rules**

The FCH 2 Joint Undertaking shall adopt its specific financial rules in accordance with Article 209 of Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No ... [Delegated Regulation on the model Financial Regulation for PPPs.]

#### *Article 6* **Staff**

1. The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68<sup>20</sup> and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and those Conditions of Employment of Other Servants shall apply to the staff employed by the FCH 2 Joint Undertaking.
2. The Governing Board shall exercise, with respect to the staff of the FCH 2 Joint Undertaking, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude Contract of Employment (hereinafter ‘the appointing authority powers’).

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<sup>20</sup> OJ 56, 4.3.1968, p. 1

The Governing Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and Article 6 of the Conditions of Employment of Other Servants delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which this delegation of powers can be suspended. The Executive Director is authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Governing Board may by way of a decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member of the Joint Undertaking other than the Executive Director.

3. The Governing Board shall adopt appropriate implementing rules to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations.
4. The staff resources shall be determined by the staff establishment plan of the FCH 2 Joint Undertaking indicating the number of temporary posts by function group and by grade and the number of contract staff expressed in full-time equivalents, in line with its annual budget.
5. The staff of the FCH 2 Joint Undertaking shall consist of temporary staff and contract staff.
6. All costs related to the staff shall be borne by the FCH 2 Joint Undertaking.

#### Article 7

##### ***Seconded national experts and trainees***

1. The FCH 2 Joint Undertaking may make use of seconded national experts and trainees not employed by the Joint Undertaking. The number of seconded national experts expressed in full-time equivalents shall be added to information on staff as referred to in Article 6(4) of this Regulation in line with the annual budget.
2. The Governing Board shall adopt a decision laying down rules on the secondment of national experts to the FCH 2 Joint Undertaking and on the use of trainees.

#### Article 8

##### ***Privileges and Immunities***

The Protocol on the Privileges and Immunities of the Union shall apply to the FCH 2 Joint Undertaking and its staff.

#### Article 9

##### ***Liability of the FCH 2 Joint Undertaking***

1. The contractual liability of the FCH 2 Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the agreement, decision or contract in question.

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

*Article 10*  
***Jurisdiction of the Court of Justice and applicable law***

1. The Court of Justice shall have jurisdiction under the conditions laid down in the Treaty as well as in the following cases:
  - (a) in any dispute between the Members which relates to the subject matter of this Regulation;
  - (b) pursuant to any arbitration clause contained in agreements, decisions or contracts concluded by the FCH 2 Joint Undertaking;
  - (c) in disputes relating to compensation for damage caused by the staff of the FCH 2 Joint Undertaking in the performance of their duties;
  - (d) in any dispute between the FCH 2 Joint Undertaking and its servants within the limits and under the conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union.
2. Regarding any matter not covered by this Regulation or by other acts of Union law, the law of the State where the seat of the FCH 2 Joint Undertaking is located shall apply.

*Article 11*  
***Evaluation***

1. By 31 December 2017 the Commission shall conduct an interim evaluation of the FCH 2 Joint Undertaking, which shall assess, notably, the level of participation in, and contribution to, the indirect actions both by the constituent entities of the Members other than the Union, and also by other legal entities. The Commission shall communicate the conclusions thereof, accompanied by its observations, to the European Parliament and to the Council by 30 June 2018.
2. On the basis of the conclusions of the interim evaluation referred to in paragraph 1, the Commission may act in accordance with Article 4(5), or take any other appropriate action.
3. Within six months after the winding up of the FCH 2 Joint Undertaking, but no later than two years after the triggering of the winding up procedure referred to in clause 21 of the Statutes contained in the Annex, the Commission shall conduct a final evaluation of the FCH 2 Joint Undertaking. The results of that final evaluation shall be presented to the European Parliament and to the Council.



*Article 12*  
**Discharge**

1. The discharge of the budget implementation with regard to the Union contribution to the FCH 2 Joint Undertaking shall be part of the discharge given by the European Parliament, upon recommendation of the Council, to the Commission in accordance with the procedure provided for in Article 319 of the Treaty.
2. The FCH 2 Joint Undertaking shall fully cooperate with the institutions involved in the discharge procedure and provide, as appropriate, any necessary additional information. In this context, it may be requested to be represented in meetings with the relevant institutions or bodies and assist the Commission authorising officer by delegation.

*Article 13*  
**Ex-post audits**

1. Ex-post audits of expenditure on indirect actions shall be carried out by the FCH 2 Joint Undertaking in accordance with Article 23 of Regulation (EU) No ... [the Horizon 2020 Framework Programme] as part of the Horizon 2020 Framework Programme indirect actions.
2. To ensure coherence, the Commission may decide to carry out the audits referred to in paragraph 1.

*Article 14*  
**Protection of the financial interests of the Members**

1. Without prejudice to clause 17(4) of the Statutes contained in the Annex, the FCH 2 Joint Undertaking shall grant Commission staff and other persons authorised by it, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.
2. The European Anti-fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)<sup>21</sup> and Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities<sup>22</sup> with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with an agreement or decision or a contract funded under this Regulation.
3. Without prejudice to paragraphs 1 and 2, contracts, agreements and decisions, resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the FCH 2 Joint Undertaking, the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

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<sup>21</sup> OJ L 136, 31.05.1999, p.1

<sup>22</sup> OJ L 292, 15.11.1996, p.2-5

4. The FCH 2 Joint Undertaking shall ensure that the financial interests of its Members are adequately protected by carrying out or commissioning appropriate internal and external controls.
5. The FCH 2 Joint Undertaking shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by OLAF<sup>23</sup>. The FCH 2 Joint Undertaking shall adopt the necessary measures needed to facilitate internal investigations conducted by OLAF.

*Article 15*  
**Confidentiality**

Without prejudice to Article 16, the FCH 2 Joint Undertaking shall ensure the protection of sensitive information whose disclosure could damage the interests of its Members or of participants in the activities of the FCH 2 Joint Undertaking.

*Article 16*  
**Transparency**

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents<sup>24</sup>, shall apply to documents held by the FCH 2 Joint Undertaking.
2. The FCH 2 Joint Undertaking Governing Board may adopt practical arrangements for implementing Regulation (EC) No 1049/2001.
3. Without prejudice to Article 10, decisions taken by the FCH 2 Joint Undertaking pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman under the conditions laid down in Article 228 of the Treaty.

*Article 17*  
**Rules for participation and dissemination**

Regulation (EU) No ... [Rules for the participation and dissemination in Horizon 2020] shall apply to the actions funded by the FCH 2 Joint Undertaking. In accordance with that Regulation, the FCH 2 Joint Undertaking shall be considered as a funding body and shall provide financial support to indirect actions as set out in clause 1 of the Statutes contained in the Annex.

*Article 18*  
**Support from the host State**

An administrative agreement may be concluded between the FCH 2 Joint Undertaking and the State where its seat is located concerning privileges and immunities and other support to be provided by that State to the FCH 2 Joint Undertaking.

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<sup>23</sup> OJ L 136, 31.5.1999, p. 15

<sup>24</sup> OJ L 145, 31.5.2001, p. 43

*Article 19*  
***Repeal and transitional provisions***

1. Regulation (EC) No 521/2008 setting up the FCH Joint Undertaking is repealed with effect from 1 January 2014.
2. Without prejudice to paragraph 1, actions initiated under Regulation (EC) No 521/2008 and financial obligations related to those actions shall continue to be governed by that Regulation until their completion.

The interim evaluation referred to in Article 11(1) shall include a final evaluation of the FCH Joint Undertaking operations under Regulation (EC) No 521/2008.

3. This Regulation shall not affect the rights and obligations of staff engaged under Regulation (EC) No 521/2008.

The employment contracts of staff referred to in the first subparagraph may be renewed under this Regulation in accordance with the Staff Regulations.

In particular, the Executive Director appointed under Regulation No 521/2008 shall, for the remaining period of term of office, be assigned to the functions of the Executive Director as provided for in this Regulation with effect from 1 January 2014. The other conditions of contract shall remain unchanged.

4. Unless otherwise agreed between Members pursuant to Regulation (EC) No 521/2008, all rights and obligations including assets, debts or liabilities of the Members pursuant to that Regulation are transferred to the Members pursuant to this Regulation.
5. Any unused appropriations under Regulation (EC) No 521/2008 shall be transferred to the FCH 2 Joint Undertaking.

*Article 20*  
***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.

Done at Brussels,

*For the Council*  
*The President*

**ANNEX:**  
**STATUTES OF THE FCH 2 JOINT UNDERTAKING**

1 - Tasks

The FCH 2 Joint Undertaking shall carry out the following tasks:

- (a) supporting financially research and innovation indirect actions mainly in the form of grants;
- (b) reaching the critical mass of research effort to give confidence to industry, public and private investors, decision makers and other stakeholders to embark on a long-term programme;
- (c) integrating research and technology development and focus on achieving long-term sustainability and industrial competitiveness targets for cost, performance and durability and overcome critical technology bottlenecks;
- (d) stimulating innovation and the emergence of new value chains;
- (e) facilitating interaction between industry, universities and research centres;
- (f) promoting the involvement of SMEs in its activities, in line with the objectives of the Horizon 2020 Framework Programme;
- (g) performing broadly-conceived socio-techno-economic research to assess and monitor technological progress and nontechnical barriers to market entry;
- (h) encouraging the development of new regulations and standards and review existing ones to eliminate artificial barriers to market entry and to support inter-changeability, interoperability, cross-border trading, and export markets;
- (i) ensuring the efficient management of the Joint Undertaking on Fuel Cells and Hydrogen;
- (j) committing Union funding and mobilise the private sector and other public sector resources needed to implement fuel cells and hydrogen research and innovation activities;
- (k) fostering and facilitating the involvement of industry in additional activities implemented outside indirect actions;
- (l) information, communication, exploitation and dissemination activities by applying *mutatis mutandis* the provisions of Article 22 of Regulation (EU) No .../2013 [the Horizon 2020 Framework Programme];
- (m) any other task needed to achieve the objectives set out in Article 2 of this Regulation.

2 – Members

The Members of the FCH 2 Joint Undertaking shall be the following:

- (a) the Union, represented by the Commission,

- (b) upon acceptance of these Statutes by means of a letter of endorsement, the New Energy World Industry Grouping AISBL, a non-profit organisation established under Belgian Law (registration number: 890025478, with its permanent office in Brussels, Belgium) (hereinafter referred to as the ‘Industry Grouping’), and
- (c) upon acceptance of these Statutes by means of a letter of endorsement, the New European Research Grouping on Fuel Cells and Hydrogen AISBL, a non-profit organisation established under Belgian Law (registration number: 0897.679.372, with its permanent office in Brussels, Belgium) (hereinafter referred to as the ‘Research Grouping’).

### 3 – Changes to membership

- 1. Any Member may terminate its membership to the FCH 2 Joint Undertaking. The termination shall become effective and irrevocable six months after notification to the other Members. As of then, the former Member shall be discharged from any obligations other than those approved or incurred by the FCH 2 Joint Undertaking prior to terminating the membership.
- 2. Membership of the FCH 2 Joint Undertaking may not be transferred to a third party without prior agreement of the Governing Board.
- 3. The FCH 2 Joint Undertaking shall publish on its website immediately upon any change to membership pursuant to this clause an updated list of Members of the FCH 2 Joint Undertaking together with the date when such change takes effect.

### 4 – Organisation of the FCH 2 Joint Undertaking

- 1. The bodies of the FCH 2 Joint Undertaking shall be:
  - (a) the Governing Board;
  - (b) the Executive Director;
  - (c) the Scientific Committee;
  - (d) the States Representatives Group;
  - (e) the Stakeholder Forum.
- 2. The Scientific Committee, the States Representatives Group and the Stakeholder Forum shall be advisory bodies to the FCH 2 Joint Undertaking.

### 5 – Composition of the Governing Board

The Governing Board shall be composed of the following:

- (a) three representatives of the Commission;
- (b) six representatives of the Industry Grouping, at least one of which shall represent SMEs;
- (c) one representative of the Research Grouping.

## 6 – Functioning of the Governing Board

1. The Commission shall hold 50 % of the voting rights. The vote of the Commission shall be indivisible. The Industry Grouping shall hold 43 % of the voting rights and the Research Grouping 7 % of the voting rights. The Members shall use their best efforts to achieve consensus. Failing consensus, the Governing Board shall take its decisions by a majority of at least 75 % of all votes, including the votes of those who are not in attendance.
2. The Governing Board shall elect its chairperson for a period of two years.
3. The Governing Board shall hold its ordinary meetings at least twice a year. It may hold extraordinary meetings at the request of the Commission or of a majority of the representatives of the Industry Grouping and the Research Grouping or at the request of the chairperson. The meetings of the Governing Board shall be convened by its chairperson and shall usually take place at the seat of the FCH 2 Joint Undertaking.

The Executive Director shall have the right to take part in the deliberations, but shall have no voting rights.

The chairperson of the States Representatives Group shall have the right to attend meetings of the Governing Board as an observer.

The Governing Board may invite, on a case by case basis, other persons to attend its meetings as observers, in particular representatives of regional authorities of the Union.

The representatives of the Members shall not be personally liable for actions they have taken in their capacity as representatives on the Governing Board.

The Governing Board shall adopt its own rules of procedure.

## 7 – Tasks of the Governing Board

1. The Governing Board shall have overall responsibility for the strategic orientation and the operations of the FCH 2 Joint Undertaking and shall supervise the implementation of its activities.
2. The Governing Board shall in particular carry out the following tasks:
  - (a) decide on the termination of the membership in the FCH 2 Joint Undertaking of any Member that does not fulfil its obligations;
  - (b) adopt the Financial rules of the FCH 2 Joint Undertaking in accordance with Article 5 of this Regulation;
  - (c) adopt the annual budget of the FCH 2 Joint Undertaking, including the staff establishment plan indicating the number of temporary posts by function group and by grade as well as the number of contract staff and seconded national experts expressed in full-time equivalents;
  - (d) exercise the appointing authority powers with respect of the staff, in accordance with Article 6(2) of this Regulation;

- (e) appoint, dismiss, extend the term of office of, provide guidance to and monitor the performance of the Executive Director;
- (f) approve the organisational structure of the Programme Office referred to in clause 9(5) upon recommendation by the Executive Director;
- (g) adopt the annual work plan and the corresponding expenditure estimates, as proposed by the Executive Director, after having consulted the Scientific Committee and the States Representatives Group;
- (h) approve the annual additional activities plan referred to in Article 4(2)(b) of this Regulation on the basis of a proposal from the Members other than the Union and after having consulted, where appropriate, an ad hoc advisory group;
- (i) approve the annual accounts;
- (j) approve the annual activity report, including the corresponding expenditure;
- (k) arrange, as appropriate, for the establishment of an internal audit capability of the FCH 2 Joint Undertaking;
- (l) approve the calls as well as, where appropriate, the related rules for submission, evaluation, selection, award and review procedures;
- (m) approve the list of actions selected for funding;
- (n) establish the FCH 2 Joint Undertaking's communications policy upon recommendation by the Executive Director;
- (o) where appropriate, establish implementing rules in line with Article 6(3) of this Regulation;
- (p) where appropriate, establish rules on the secondment of national experts to the FCH 2 Joint Undertaking and on the use of trainees in line with Article 7 of this Regulation;
- (q) where appropriate, set up advisory groups in addition to the bodies to the FCH 2 Joint Undertaking;
- (r) where appropriate, submit to the Commission any request to amend this Regulation proposed by any Member of the FCH 2 Joint Undertaking;
- (s) be responsible for any task that is not specifically allocated to one of the bodies of the FCH 2 Joint Undertaking which it may assign to one of those bodies.

#### 8 – Appointment, dismissal or extension of the term of office of the Executive Director

1. The Executive Director shall be appointed by the Governing Board, from a list of candidates proposed by the Commission, following an open and transparent selection procedure. The Commission shall associate the representation from the other Members of the FCH 2 Joint Undertaking in the selection procedure as appropriate.

In particular, an appropriate representation from the other Members of the FCH 2 Joint Undertaking shall be ensured at the pre-selection stage of the selection procedure. For that

purpose, the other Members of the FCH 2 Joint Undertaking shall appoint by common accord a representative as well as an observer on behalf of the Governing Board.

2. The Executive Director is a member of staff and shall be engaged as a temporary agent of the FCH 2 Joint Undertaking under point (a) of Article 2 of the Conditions of Employment of Other Servants of the Union.

For the purpose of concluding the contract of the Executive Director, the FCH 2 Joint Undertaking shall be represented by the chairperson of the Governing Board.

3. The term of office of the Executive Director shall be three years. By the end of that period, the Commission associating the other Members of the FCH 2 Joint Undertaking as appropriate shall undertake an assessment of the performance of the Executive Director and the FCH 2 Joint Undertaking's future tasks and challenges.
4. The Governing Board, acting on a proposal from the Commission which takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for no more than four years.
5. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.
6. The Executive Director may be dismissed only upon a decision of the Governing Board acting on a proposal from the Commission associating the other Members of the FCH 2 Joint Undertaking as appropriate.

#### 9 – Tasks of the Executive Director

1. The Executive Director shall be the chief executive responsible for the day-to-day management of the FCH 2 Joint Undertaking in accordance with the decisions of the Governing Board.
2. The Executive Director shall be the legal representative of the FCH 2 Joint Undertaking. He shall be accountable to the Governing Board.
3. The Executive Director shall implement the budget of the FCH 2 Joint Undertaking.
4. The Executive Director shall in particular carry out the following tasks in an independent manner:
  - (a) prepare and submit for adoption to the Governing Board the draft annual budget, including the corresponding staff establishment plan indicating the number of temporary posts in each grade and function group and the number of contract staff and seconded national experts expressed in full-time equivalents;
  - (b) prepare and submit for adoption to the Governing Board the annual work plan and the corresponding expenditure estimates;
  - (c) submit for approval to the Governing Board the annual accounts;
  - (d) prepare and submit for approval to the Governing Board the annual activity report, including the corresponding expenditure;



- (e) submit to the Governing Board the report on in-kind contributions in indirect actions as provided for in Clause 13(3)(b) of the Statutes contained in the Annex;
  - (f) submit for approval to the Governing Board the list of proposals to be selected for funding;
  - (g) sign individual grant agreements or decisions;
  - (h) sign the procurement contracts;
  - (i) implement the FCH 2 Joint Undertaking's communications policy;
  - (j) organise, direct and supervise the operations and the staff of the FCH 2 Joint Undertaking within the constraints of the delegation by the Governing Board as provided for in Article 6(2) of this Regulation;
  - (k) establish and ensure the functioning of an effective and efficient internal control system and report any significant change to it to the Governing Board;
  - (l) ensure that risk assessment and risk management are performed;
  - (m) take any other measures needed for assessing the progress of the FCH 2 Joint Undertaking towards achieving its objectives;
  - (n) perform any other tasks entrusted or delegated to the Executive Director by the Governing Board.
5. The Executive Director shall set up a Programme Office for the execution, under his/her responsibility, of all support tasks arising from this Regulation. The Programme Office shall be composed of the staff of the FCH 2 Joint Undertaking and shall, in particular, carry out the following tasks:
- (a) provide support in establishing and managing an appropriate accounting system in accordance with the Financial rules of the FCH 2 Joint Undertaking;
  - (b) manage the calls as provided for in the annual work plan, and the administration of the agreements or decisions, including their coordination;
  - (c) provide to the Members and the other bodies of the FCH 2 Joint Undertaking all relevant information and support necessary for them to perform their duties as well as responding to their specific requests;
  - (d) act as the secretariat of the bodies of the FCH 2 Joint Undertaking and provide support to any advisory group set up by the Governing Board.

#### 10 – Scientific Committee

1. The Scientific Committee shall consist of no more than nine members. It shall elect a chairperson from amongst its members.
2. The members shall reflect a balanced representation of world-wide recognised experts from academia, industry and regulatory bodies. Collectively, the Scientific Committee members shall have the necessary scientific competencies and expertise covering the

technical domain needed to make science-based recommendations to the FCH 2 Joint Undertaking.

3. The Governing Board shall establish the specific criteria and selection process for the composition of the Scientific Committee and shall appoint its members. The Governing Board shall take into consideration the potential candidates proposed by the FCH 2 States Representatives Group.
4. The Scientific Committee shall carry out the following tasks:
  - (a) advise on the scientific priorities to be addressed in the annual work plans;
  - (b) advise on the scientific achievements described in the annual activity report.
5. The Scientific Committee shall meet at least once a year. The meetings shall be convened by its chairperson.
6. The Scientific Committee may, with the agreement of the chairperson, invite other persons to attend its meetings.
7. The Scientific Committee shall adopt its own rules of procedure.

#### 11 - States Representatives Group

1. The FCH 2 States Representatives Group shall consist of one representative of each Member State and of each country associated to the Horizon 2020 Framework Programme. It shall elect a chairperson among its members.
2. The States Representatives Group shall meet at least once a year. The meetings shall be convened by its chairperson. The Executive Director and the chairperson of the Governing Board or their representatives shall attend the meetings.

The chairperson of the States Representatives Group may invite other persons to attend its meetings as observers, in particular representatives of regional authorities of the Union.

3. The States Representatives Group shall in particular review information and provide opinions on the following matters:
  - (a) programme progress in the FCH 2 Joint Undertaking and achievement of its targets;
  - (b) updating of strategic orientation;
  - (c) links to the Horizon 2020 Framework Programme;
  - (d) annual work plans;
  - (e) involvement of SMEs.
4. The States Representatives Group shall also provide information to and act as an interface with the FCH 2 Joint Undertaking on the following matters:
  - (a) the status of relevant national or regional research and innovation programmes and identification of potential areas of cooperation, including deployment of FCH technologies;

- (b) specific measures taken at national or regional level with regard to dissemination events, dedicated technical workshops and communication activities.
5. The States Representatives Group may issue, on its own initiative, recommendations to the FCH 2 Joint Undertaking on technical, managerial and financial matters, in particular when those matters affect national or regional interests.

The FCH 2 Joint Undertaking shall inform the States Representatives Group of the follow up it has given to such recommendations.

6. The FCH 2 States Representatives Group shall adopt its own rules of procedure.

## 12 - Stakeholder Forum

1. The Stakeholder Forum shall be open to all public and private stakeholders, international interest groups from Member States, associated countries as well as from other countries.
2. The Stakeholder Forum shall be informed of the activities of the FCH 2 Joint Undertaking and shall be invited to provide comments.
3. The meetings of the Stakeholder Forum shall be convened by the Executive Director.

## 13 - Sources of financing

1. The FCH 2 Joint Undertaking shall be jointly funded by the Union and the Members other than the Union or their constituent entities through financial contributions paid in instalments and contributions consisting of the costs incurred by them in implementing indirect actions that are not reimbursed by the FCH 2 Joint Undertaking.
2. The administrative costs of the FCH 2 Joint Undertaking shall not exceed EUR 40 million and shall be covered through financial contributions divided on an annual basis between the Union and the Members other than the Union. The Union shall contribute with 50%, the Industry Grouping with 43% and the Research Grouping with 7%. If part of the contribution for administrative costs is not used, it may be made available to cover the operational costs of the FCH 2 Joint Undertaking.
3. The operational costs of the FCH 2 Joint Undertaking shall be covered through:
  - (a) a financial contribution by the Union;
  - (b) in-kind contributions by the constituent entities of the Members other than the Union participating in the indirect actions, consisting of the costs incurred by them in implementing indirect actions less the contribution of the FCH 2 Joint Undertaking and any other Union contribution to those costs.
4. The resources of the FCH 2 Joint Undertaking entered to its budget shall be composed of the following contributions:
  - (a) Members' financial contributions to the administrative costs;
  - (b) Union financial contribution to the operational costs;
  - (c) any revenue generated by the FCH 2 Joint Undertaking;

(d) any other financial contributions, resources and revenues.

Any interest yielded by the contributions paid to the FCH 2 Joint Undertaking by its Members shall be considered to be its revenue.

5. All resources of the FCH 2 Joint Undertaking and its activities shall be devoted to the objectives set out in Article 2 of this Regulation.
6. The FCH 2 Joint Undertaking shall own all assets generated by it or transferred to it for the fulfilment of its objectives set out in Article 2 of this Regulation.
7. Except when the FCH 2 Joint Undertaking is wound up pursuant to clause 21, any excess revenue over expenditure shall not be paid to the Members of the FCH 2 Joint Undertaking.

#### 14 – Financial commitments

Financial commitments of the FCH 2 Joint Undertaking shall not exceed the amount of financial resources available or committed to its budget by its Members.

#### 15 - Financial year

The financial year shall run from 1 January to 31 December.

#### 16 - Operational and financial planning

1. The Executive Director shall submit for adoption to the Governing Board a draft annual work plan, which shall include a detailed plan of the research and innovation activities, the administrative activities and the corresponding expenditure estimates for the coming year. The draft work plan shall also include the estimated value of the contributions to be made in accordance with clause 13(3)(b).
2. The annual work plan for a particular year shall be adopted by the end of the previous year. The annual work plan shall be made publicly available.
3. The Executive Director shall prepare the draft annual budget for the following year and submit it to the Governing Board for adoption.
4. The annual budget for a particular year shall be adopted by the Governing Board by the end of the previous year.
5. The annual budget shall be adapted in order to take into account the amount of the Union contribution as set out in the Union budget.

#### 17 - Operational and financial reporting

1. The Executive Director shall report annually to the Governing Board on the performance of his duties in accordance with the financial rules of the FCH 2 Joint Undertaking.

By 15 February each year the Executive Director shall submit to the Governing Board for approval an annual activity report on the progress made by the FCH 2 Joint Undertaking in

the previous calendar year, in particular in relation to the annual work plan for that year. That report shall include, inter alia, information on the following matters:

- (a) research, innovation and other actions carried out and the corresponding expenditure;
- (b) the actions submitted, including a breakdown by participant type, including SMEs, and by country;
- (c) the actions selected for funding, including a breakdown by participant type, including SMEs, and by country and indicating the contribution of the FCH 2 Joint Undertaking to the individual participants and actions.

2. Once approved by the Governing Board, the annual activity report shall be made publicly available.
3. The FCH 2 Joint Undertaking shall report annually to the Commission in accordance with Article 60(5) of Regulation (EU, Euratom) No 966/2012.
4. The accounts of the FCH 2 Joint Undertaking shall be examined by an independent audit body as laid down in Article 60(5) of Regulation (EU, Euratom) No 966/2012.

The accounts of the FCH 2 Joint Undertaking shall not be subject to examination by the Court of Auditors.

#### 18 - Internal audit

The Commission's internal auditor shall exercise the same powers over the FCH 2 Joint Undertaking as those exercised in respect of the Commission.

#### 19 - Liability of Members and insurance

1. The financial liability of the Members for the debts of the FCH 2 Joint Undertaking shall be limited to their contribution already made for the administrative costs.
2. The FCH 2 Joint Undertaking shall take out and maintain appropriate insurance.

#### 20 - Conflict of interest

1. The FCH 2 Joint Undertaking, its bodies and staff shall avoid any conflict of interest in the implementation of their activities.
2. The FCH 2 Joint Undertaking Governing Board may adopt rules for the prevention and management of conflicts of interest in respect of its Members, bodies and staff. In those rules, provision shall be made to avoid a conflict of interest for the representatives of the Members serving in the Governing Board.

#### 21 - Winding up

1. The FCH 2 Joint Undertaking shall be wound up at the end of the period defined in Article 1 of this Regulation.

2. The winding up procedure shall be automatically triggered if the Commission or all Members other than the Union withdraw from the FCH 2 Joint Undertaking.
3. For the purpose of conducting the proceedings to wind up the FCH 2 Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.
4. When the FCH 2 Joint Undertaking is being wound up, its assets shall be used to cover its liabilities and the expenditure relating to its winding up. Any surplus shall be distributed among the Members at the time of the winding up in proportion to their financial contribution to the FCH 2 Joint Undertaking. Any such surplus distributed to the Union shall be returned to the Union budget.
5. An ad hoc procedure shall be set up to ensure the appropriate management of any agreement concluded or decision adopted by the FCH 2 Joint Undertaking as well as any procurement contract with duration longer than its duration.

## LEGISLATIVE FINANCIAL STATEMENT

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objectives
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management mode(s) envisaged

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. *Summary of estimated impact on expenditure*
  - 3.2.2. *Estimated impact on Fuel Cells and Hydrogen Joint Undertaking's appropriations*
  - 3.2.3. *Estimated impact on Fuel Cells and Hydrogen Joint Undertaking's human resources*
  - 3.2.4. *Compatibility with the current multiannual financial framework*
  - 3.2.5. *Third-party contributions*
- 3.3. Estimated impact on revenue

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Proposal for a Council Regulation on the Fuel Cells and Hydrogen 2 Joint Undertaking.

#### 1.2. Policy area(s) concerned in the ABM/ABB structure<sup>25</sup>

Horizon 2020, the Framework Programme for Research and Innovation.

The Societal Challenges addressed are ‘Secure, clean and efficient energy’ and ‘Smart, green and integrated transport’.

#### 1.3. Nature of the proposal/initiative

The proposal/initiative relates to **a new action**

The proposal/initiative relates to **a new action following a pilot project/preparatory action**<sup>26</sup>

The proposal/initiative relates to **the extension of an existing action**

The proposal/initiative relates to **an action redirected towards a new action**

#### 1.4. Objective(s)

##### 1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

The general objective of the proposed continuation of the Fuel Cells and Hydrogen (FCH) Joint Undertaking in Horizon 2020 is to contribute to implementing an optimal research and innovation programme at EU level and to develop a strong, sustainable and globally competitive fuel cells and hydrogen sector in the Union, in particular to:

- reduce the production cost of fuel cell systems to be used in transport applications, while increasing their lifetime to levels competitive with conventional technologies.

- increase the electrical efficiency and the durability of the different fuel cells used for power production, while reducing costs, to levels competitive with conventional technologies.

- increase the energy efficiency of production of hydrogen from water electrolysis while reducing capital costs, so that the combination of the hydrogen and the fuel cell system is competitive with the alternatives available in the marketplace.

- demonstrate on a large scale the feasibility of using hydrogen as a competitive energy storage medium for electricity produced from renewable energy sources.

<sup>25</sup> ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

<sup>26</sup> As referred to in Article 54(2)(a) or (b) of the Financial Regulation.



1.4.2. *Expected result(s) and impact*

The potential of the FCH 2 JU to contribute to growth, jobs and competitiveness in the European Union is described in the point 2.2 of the Impact Assessment.

### 1.4.3. Indicators of results and impact

A set of Key Performance Indicators (KPIs) is proposed to monitor the FCH 2 JU during the period 2014 to 2020, in line with the specific objectives of the programme.

Area	KPI description	Target	When?
Operational objective 1	Private and public expenditures in R&D, innovation and early deployment activities in Europe (triggered by JU)	> €1,4 billion over 2014-2020	By 2020
Operational objective 2	SME participation in the JU programme	≥25%	Every CfP
Operational objective 3	FCH 2 JU demonstration projects hosted in Member States and Regions benefitting from EU Structural Funds	7 projects	By 2020
Operational objective 4	Time to grant (from call closing to grant signature)	< 180 days	Every CfP
	Time to pay	< 90 days	

## 1.5. Grounds for the proposal/initiative

### 1.5.1. Requirement(s) to be met in the short or long term

*In Horizon 2020, the FCH 2 JU shall contribute to achieving the EU's overarching objective of smart, sustainable and inclusive growth by:*

*- boosting the share of fuel cells and hydrogen technologies used in sustainable, low-carbon energy and transport systems;*

*- ensuring a world leading, competitive European fuel cells and hydrogen industry;*

*- securing inclusive growth for the European fuel cells and hydrogen industry, increasing and safeguarding jobs.*

### 1.5.2. Added value of EU involvement

*Intervention at EU level will reduce the differences between national programmes, their fragmentation and potential overlapping. Pooling and coordinating research and development efforts at EU level gives a better chance of success, given the trans-national nature of the infrastructure and technologies to be developed as well as the need for a sufficient mass of resources.*

*The intervention of the European Union will also contribute to rationalise research programmes and ensure inter-operability of the developed systems.*

### 1.5.3. Lessons learned from similar experiences in the past

*The first interim evaluation of the FCH JU, set up in 2008, was finalised in 2011 and concluded that the Joint Undertaking approach was generally successful in enhancing public-private activities related to technology development and*

*demonstration, and provides stability to the R&D community.*

1.5.4. *Compatibility and possible synergy with other appropriate instruments*

This issue is addressed in points 2.6, 3.2 and 5.9 of the Impact Assessment document attached to this proposal.

**1.6. Duration and financial impact**

- Proposal/initiative of **limited duration**
- Proposal/initiative in effect from 01/01/2014 to 31/12/2024
- Financial impact from 2014-2020 for commitment appropriations and 2014 to 2024 for payment appropriations
- Proposal/initiative of **unlimited duration**
  - Implementation with a start-up period from YYYY to YYYY,
  - followed by full-scale operation.

**1.7. Management mode(s) envisaged<sup>27</sup>**

- Direct management** by the Commission through:
  - executive agencies
  - Shared management with Member States:
  - Indirect management by entrusting budget implementation tasks to:
    - international organisations and their agencies (please specify);
    - the EIB and the European Investment Bank;
    - bodies referred to in 209 FR;
    - public law bodies;
    - bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
    - bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
    - persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU and identified in the relevant basic act.

<sup>27</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: [http://www.cc.cec/budg/man/budgmanag/budgmanag\\_en.html](http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html)

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

The FCH 2 Joint Undertaking will be monitored through intermediary contacts as provided in Clause 17 of the Statutes to the FCH 2 Joint Undertaking Regulation and through the interim and final evaluations as provided in Article 11 of the Regulation . The Governing Board will also supervise the activities of the FCH 2 Joint Undertaking.

### 2.2. Management and control system

#### 2.2.1. Risk(s) identified

The Commission will ensure through the Authorising Officer by Delegation that the rules applicable to the FCH 2 JU fully comply with the requirements of Articles 60 and 61 of the Financial Regulation. Monitoring arrangements, including membership of the Governing board, of the FCH 2 JU and reporting arrangements will ensure that the Commission services can meet the accountability requirements both to the College and to the Budgetary Authority.

The internal control framework for the FCH 2 JU is built on:

- the implementation of the Internal Control Standards offering at least equivalent guarantees to those of the Commission;
- procedures for selecting the best projects through independent evaluation, and for translating them into legal instruments;
- project and contract management throughout the lifetime of every project;
- ex-ante checks on 100% of claims, including receipt of audit certificates and ex-ante certification of cost methodologies;
- ex post audits on a sample of claims as part of the Horizon 2020 ex-post audits;
- and scientific evaluation of project results.

Various measures have been established to mitigate the inherent risk of conflict of interest within the FCH 2 JU, especially equal votes for the Commission and for industrial partners in the Governing Board, selection of the Executive Director by the Governing Board based on a proposal by the Commission, independence of staff, evaluations by independent experts based on published selection criteria together with appeal mechanisms and full declarations of any interests. The establishment of ethical and organisational values will be one of the key roles of the FCH 2 JU, and will be monitored by the Commission.

#### 2.2.2. Control method(s) envisaged

The Commission's internal auditor shall exercise the same powers over the Joint Undertaking as those exercised in respect of the Commission. Moreover, the Governing Board may arrange, as appropriate, for the establishment of an internal audit capability of the Joint Undertaking. The Executive Director of the FCH 2 JU, as Authorising Officer, will be required to introduce a cost-effective system of internal control and management.

He/she will be required to report to the Commission on the internal control framework adopted.

The Commission will monitor the risk of non-compliance through the reporting system that it will develop, as well as by following the results of ex post audits on the recipients of EU funds from the FCH 2 JU, as part of ex post audits covering the whole of the Horizon 2020.

The European Council of February 4th 2011 concluded that ‘it is crucial that EU instruments aimed at fostering R&D&I be simplified [...], in particular by agreeing between the relevant institutions a new balance between trust and control and between risk taking and risk avoidance’. Moreover, the European Parliament, in its Resolution of 11 November 2010 (P7\_TA(2010)0401) on simplifying the implementation of the Research Framework Programmes explicitly supports a higher risk of errors for research funding and ‘expresses its concern that the current system and the practice of FP7 management are excessively control-oriented’.

There is therefore an acceptance among stakeholders and Institutions that the whole range of objectives and interests, especially the success of the Research policy, international competitiveness and scientific excellence, should be considered, along with the error rate. At the same time, there is a clear need to manage the budget in an efficient and effective manner, and to prevent fraud and waste.

As stated above, the Commission will monitor the risk of non-compliance through the reporting system that it will establish, as well as by following the results of ex post audits on the recipients of EU funds from the FCH 2 JU, as part of the ex post audits covering the whole of the Horizon 2020.

### 2.2.3. *Expected level of risk of non-compliance*

As the Commission reported in the Legislative Financial Statement for Horizon 2020, it remains the ultimate objective to achieve a residual error rate of less than 2% of total expenditure over the lifetime of the programme, and to that end, it has introduced a number of simplification measures. However, the other objectives set out above as well as the costs of controls need to be considered.

As the rules of participation in the FCH JU are basically the same as those that the Commission will use, and with a population of beneficiaries with a similar risk profile to those of the Commission, it can be expected that the level of error will be similar to that established by the Commission for Horizon 2020.

See the Legislative Financial Statement for Horizon 2020 for full details of the error rate expected with respect to participants.

### 2.3. **Measures to prevent fraud and irregularities**

The Commission will ensure that appropriate measures to fight against fraud, corruption and any other illegal activity at all stages of the management process are applied by the FCH 2 JU. The proposal for Horizon 2020 has been subject to fraud proofing and an assessment of the impact. Overall the measures proposed should have a positive impact on the fight against fraud, especially the greater emphasis on risk based audit and reinforced scientific evaluation and control.

The current FCH JU already cooperate with the Commission services in matters relating to fraud and irregularity, the Commission will ensure that this will continue and be strengthened.

The Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under the Programme.

The European Anti-fraud Office (OLAF) may carry out on-the-spot checks and inspections on economic operators concerned directly by such funding in accordance with the procedures laid down in Regulation (Euratom, EC) No 2185/96 with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract concerning Union funding.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- New budget lines requested

*In order of multiannual financial framework headings and budget lines.*

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number 1A [Heading Competitiveness for growth and jobs]	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
[1A]	08.020733 Societal challenges – FCH 2 JU	Diff	YES	YES	YES	YES

\*the goal is to use one single budget line. The contribution to this budget line is expected to come from:

Budget line	Commitment Appropriation (EUR million)							
	2014	2015	2016	2017	2018	2019	2020	Total
06.030301 Achieving a resource-efficient, environmentally-friendly, safe and seamless European transport system	10,050	11,741	11,742	10,634	10,479	9,980	10,374	75,000
08.020303 Making the transition to a reliable, sustainable and competitive energy system	36,177	42,267	42,271	38,283	37,726	35,929	37,347	270,000
08.020304 Achieving a European transport system that is resource-efficient, environmentally friendly, safe and seamless	23,448	27,395	27,398	24,813	24,452	23,287	24,207	175,000
32.040301 Making the transition to a reliable, sustainable and competitive energy system	24,118	28,178	28,181	25,522	25,151	23,952	24,898	180,000
	93,793	109,581	109,592	99,252	97,808	93,148	96,826	700,000



### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial Framework:		Competitiveness for growth and jobs										TOTAL
		1A	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Year 2021-2024	Year		
Fuel Cells and Hydrogen Joint Undertaking	Commitments (1)		0,324	0,330	0,337	0,344	1,454	1,483	7,285			11,557
	Payments (2)		0,324	0,330	0,337	0,344	1,454	1,483	1,512		5,772	11,557
Title 2	Commitments (1a)		0,115	0,257	0,261	0,454	1,640	1,711	4,005			8,443
	Payments (2a)		0,115	0,257	0,261	0,454	1,640	1,711	1,746		2,260	8,443
Title 3	Commitments (3a)		93,354	108,994	108,994	98,454	94,714	89,954	85,536		0	680,000
	Payments (3b)			56,012	65,396	84,067	80,871	97,298	95,462		200,893	680,000
TOTAL appropriations for FCH JU	Commitments =1+1a +3a		93,793	109,581	109,592	99,252	97,808	93,148	96,826		0	700,000
	Payments =2+2a +3b		0,439	56,599	65,994	84,865	83,965	100,492	98,720		208,925	700,000

The administrative costs shall be shared between the Union and the other members of the FCH 2 Joint Undertaking. The Union will provide 50% of the funding. The Industry Grouping and the Research Grouping shall provide the other 50%, so 43% and 7% respectively. The Union's total contribution to the FCH 2 Joint Undertaking administrative costs shall not exceed EUR 20 million. If part of the Union's contribution is not used, it may be made available for the FCH 2 JU's activities.

The FCH 2 JU's operational costs shall be covered by financial contribution of the Union, and through in-kind contributions from the constituent entities of the Members other than the Union, participating in the FCH 2 JU's activities.

Administrative costs were estimated according to current expenditure. Payment appropriations were estimated taking into consideration pre-financings to be paid and interim payments related to the appropriations committed.

Heading of multiannual financial framework:		1A Competitiveness for growth and jobs 'Administrative expenditure'									
		Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Year 2021-2024*	Total	
<i>EUR million (to three decimal places)</i>											
DG: RTD											
• Human resources	0,393	0,401	0,409	0,417	0,425	0,434	0,443	p.m.	2,922		
• Other administrative expenditure	0	0	0	0	0	0	0	0	0		
<b>TOTAL</b>	0,393	0,401	0,409	0,417	0,425	0,434	0,443	p.m.	2,922		
<b>TOTAL appropriations under HEADING 1A</b> of the multiannual financial framework	0,393	0,401	0,409	0,417	0,425	0,434	0,443	p.m.	2,922		

TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework		Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Year 2020-2024	Total
		Commitments	94,186	109,982	110,001	99,669	98,233	93,582	97,269	0
Payments	0,832	57,000	66,403	85,282	84,391	100,926	99,163	210,783	702,922	

\*Staff number after 2020 has to be decided in a later stage

3.2.2. *Estimated impact on Fuel Cells and Hydrogen Joint Undertaking's appropriations*

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as described below:

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

Indicate objectives and outputs ↓	2014	2015	2016	2017	2018	2019	2020	TOTAL										
								Cost	Total number									
<b>OUTPUTS</b>																		
Type <sup>28</sup>	Cost	Cost	Cost	Cost	Cost	Cost	Cost	Cost	Total number									
SPECIFIC OBJECTIVE No 1 Reduce the production cost of fuel cell systems to be used in transport applications by taking advantage of scientific and technological advances and the scale effects that accompanies series production, while increasing their lifetime in order to bring total cost of ownership and lifetime to levels competitive with conventional technologies																		
- Output	Number of Grants signed	3,589	10	36,500	12	40,300	12	40,300	10	38,000	10	36,900	10	35,500	9	34,500	73	262,000
Subtotal for specific objective N°1		10	36,500	12	40,300	12	40,300	10	38,000	10	36,900	10	35,500	9	34,500	73	262,000	
SPECIFIC OBJECTIVE No 2 Increase the electrical efficiency and the durability of the different fuel cells used for power, while reducing current cost, to levels that make them competitive with incumbent technologies																		
- Output	Number of grants	3,755	5	18,254	6	22,600	6	22,600	5	20,500	5	18,214	5	17,000	4	16,000	36	135,168
Subtotal for specific objective No 2		5	18,254	6	22,600	6	22,600	5	20,500	5	18,214	5	17,000	4	16,000	36	135,168	
SPECIFIC OBJECTIVE No 3 Increase the energy efficiency of distributed production of hydrogen from water electrolysis while reducing the system capital expenditure so that the combination of the hydrogen cost at the dispenser and that of the fuel cell system it is used in, is competitive with the alternatives available in the marketplace)																		
- Output	Number of Grants	3,988	5	19,000	5	22,000	5	22,000	5	19,900	5	20,000	5	18,854	5	17,836	35	139,590
Subtotal for specific objective No 3		5	19,000	5	22,000	5	22,000	5	19,900	5	20,000	5	18,854	5	17,836	35	139,590	
SPECIFIC OBJECTIVE No 4 Demonstrate on a large scale the feasibility of using hydrogen as a competitive energy storage medium for integrating of electricity produced from renewable energy sources																		
- Output	Number of Grants	3,871	5	19,600	6	24,094	6	24,094	6	20,054	5	19,600	5	18,600	4	17,200	37	143,242

<sup>28</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

Subtotal for specific objective No 4	5	19,600	6	24,094	6	24,094	6	20,054	5	19,600	5	18,600	4	17,200	37	143,242
<b>TOTAL COST</b>	20	93,354	29	108,994	29	108,994	29	98,454	25	94,714	25	89,954	22	85,536	181	680,000

### 3.2.3. Estimated impact on human resources

#### 3.2.3.1. Summary

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as described below:

Staffing numbers (FTE)<sup>29</sup>

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	TOTAL
Officials (AD Grades)	0	0	0	0	0	0	0	0	0	0	0	0
Officials (AST Grades)	0	0	0	0	0	0	0	0	0	0	0	0
Contract agents	2	2	2	2	2	2	2	2	2	2	2	22
Temporary agents AD	15	15	15	15	15	15	15	15	14	13	12	159
Temporary agents AST	9	9	9	9	9	9	9	9	9	8	7	96
<b>TOTAL</b>	<b>26</b>	<b>26</b>	<b>26</b>	<b>26</b>	<b>26</b>	<b>26</b>	<b>26</b>	<b>26</b>	<b>25</b>	<b>23</b>	<b>21</b>	<b>277</b>

EUR million (to three decimal places)

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Year 2021	Year 2022	Year 2023	Year 2024	TOTAL
Officials (AD Grades)	0	0	0	0	0	0	0	0	0	0	0	0
Officials (AST Grades)												0
Contract agents	0,094	0,096	0,098	0,100	0,102	0,104	0,106	0,108	0,110	0,112	0,115	1,144
Temporary agents (AD Grades)	1,620	1,652	1,685	1,719	1,754	1,789	1,824	1,861	1,772	1,678	1,580	18,934
Temporary agents AST	0,972	0,991	1,011	1,031	1,052	1,073	1,095	1,117	1,139	1,033	0,922	11,436
<b>TOTAL</b>	<b>2,686</b>	<b>2,740</b>	<b>2,795</b>	<b>2,850</b>	<b>2,907</b>	<b>2,966</b>	<b>3,025</b>	<b>3,085</b>	<b>3,021</b>	<b>2,823</b>	<b>2,616</b>	<b>31,513</b>

<sup>29</sup> In the case of PPP bodies under Article 209 FR, this table is included for information purposes.

### 3.2.3.2. Estimated requirements of human resources for the parent DG

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as described below:

*Estimate to be expressed in number (FTE)*

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020*
<b>Establishment plan posts (officials and temporary staff)</b>							
XX 01 01 01 (Headquarters and Commission's Representation Offices)							
XX 01 01 02 (Delegations)							
08. 01 05 01 (Indirect research)	3	3	3	3	3	3	3
10 01 05 01 (Direct research)							
XX 01 02 01 (CA, SNE, INT from the 'global envelope')							
XX 01 02 02 (CA, LA, SNE, INT and JED in the delegations)							
<b>XX 01 04 yy</b> <sup>30</sup>							
- at Headquarters							
- in delegations							
XX 01 05 02 (CA, SNE, INT - Indirect research)							
10 01 05 02 (CA, SNE, INT - Direct research)							
Other budget lines (specify)							
<b>TOTAL</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>

\* This table does not include the staff numbers in the Commission after 2020. This will be decided at later stage

**08** is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG. If necessary, an additional allocation may be granted to the managing DG under the annual allocation procedure, depending on budgetary constraints.

<sup>30</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

<sup>31</sup> Mainly for the Structural Funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Fisheries Fund (EFF).

Description of tasks to be carried out:

Officials and temporary staff	Interface with Fuel Cells and Hydrogen 2 Joint Undertaking
External staff	

Description of the calculation of cost for FTE equivalent should be included in the Annex, section 3.

3.2.3.3. a. Estimated requirements of human resources for the Fuel Cells and Hydrogen 2 Joint Undertaking's <sup>32</sup>

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as described below:

b. Estimated requirements of human resources to be financed from appropriations under 2014-2020 Multiannual Financial Framework

*Estimate to be expressed in number (FTE)*

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
<b>• Establishment plan posts (officials and temporary staff)</b>											
Fuel Cells and Hydrogen 2 Joint Undertaking											
Temporary (AD grades)	4	4	4	4	15	15	15	15	14	13	12
Temporary (AST grades)	2	2	2	2	9	9	9	9	9	8	7
<b>• External staff (in Full Time Equivalent: FTE)<sup>33</sup></b>											
(PPP body)											
TA											
CA	0	0	0	0	2	2	2	2	2	2	2
SNE											
INT											
<b>TOTAL</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>26</b>	<b>26</b>	<b>26</b>	<b>26</b>	<b>25</b>	<b>23</b>	<b>21</b>

\* Equivalent to the average of staff per year

Description of tasks to be carried out:

Officials and temporary staff	Contribution to the tasks and activities of the Fuel Cells and Hydrogen Joint Undertaking
External staff	Contribution to the tasks and activities of the Fuel Cells and Hydrogen Joint Undertaking

<sup>32</sup> In the case of PPP bodies under Article 209 FR, this section is included for information purposes.

<sup>33</sup> CA = Contract Agent; LA = Local Agent; SNE = Seconded National Expert; INT = agency staff ('Intérimaire').

c. Human resources financed from appropriations under 2007-2013 Multiannual Financial Framework<sup>34</sup>

*Estimate to be expressed in numbers (FTE)*

	2014	2015	2016	2017	Total
<b>• Establishment plan posts (officials and temporary staff)</b>					
Fuel Cells and Hydrogen Joint Undertaking					
Temporary (AD grades)*	11	11	11	11	44
Temporary (AST grades)*	7	7	7	7	28
<b>External staff (in Full Time Equivalent: FTE)<sup>35</sup></b>					
Fuel Cells and Hydrogen Joint Undertaking					
TA					
CA	2	2	2	2	8
SNE					
INT					
<b>TOTAL</b>	<b>20</b>	<b>20</b>	<b>20</b>	<b>20</b>	<b>80</b>

d. Contribution to the running costs for the phasing out of the PPP body under the Multiannual Financial Framework 2007-2013

*EUR million (to 3 decimal places)*

	Year 2014	Year 2015	Year 2016	Year 2017	Total <sup>36</sup>
Contribution in cash from the EU	1,345	1,372	1,399	1,427	5,543
Contribution in cash from third parties	1,883	1,920	1,959	1,999	7,761
<b>TOTAL</b>	<b>3,228</b>	<b>3,292</b>	<b>3,358</b>	<b>3,426</b>	<b>13,304</b>

<sup>34</sup> In the case of PPP bodies under Article 209 FR, this table is included for information purposes.

<sup>35</sup> CA = Contract Agent; LA = Local Agent; SNE = Seconded National Expert; INT = agency staff ('Intérimaire').

<sup>36</sup> The total EU cash contribution should equal the amount front-loaded in the 2013 budget for the completion of the body's 2007-2013 activities.



### 3.2.4. Compatibility with the current multiannual financial framework

- Proposal/initiative is compatible the current multiannual financial framework.
- Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>37</sup>.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

### 3.2.5. Third-party contributions

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

*Appropriations in EUR million (to three decimal places)*

	2014	2015	2016	2017	2018	2019	2020-2024	Total
<i>Industry Grouping and Research Grouping – cash contribution to the administrative costs</i>	0,439	0,587	0,598	0,798	3,094	3,194	11,290	20
<b>TOTAL appropriations co-financed</b>	<b>0,439</b>	<b>0,587</b>	<b>0,598</b>	<b>0,798</b>	<b>3,094</b>	<b>3,194</b>	<b>11,290</b>	<b>20</b>

<sup>37</sup> See points 19 and 24 of the Interinstitutional Agreement.

### 3.3. Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.
- Proposal/initiative has the following financial impact:
  - on own resources
  - on miscellaneous revenue