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From:	Working Party on Combating Fraud
To:	Permanent Representatives Committee
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Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the "Pericles 2020" programme) ( <b>first reading</b> ) - Approval of the final compromise text with a view to a first reading agreement with the European Parliament

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**FINAL COMPROMISE TEXT**

**Proposal for a**

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the "Pericles 2020" programme) and repealing Council Decisions 2001/912/EC, 2001/923/EC, 2006/75/EC, 2006/79/EC, 2006/849/EC and 2006/850/EC**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 133 thereof,

Having regard to the proposal from the European Commission<sup>1</sup>,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Central Bank,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Union and the Member States have set themselves the objective of laying down the measures necessary for the use of the euro as a single currency. These measures include protecting the euro against counterfeiting **and related fraud thus empowering the effectiveness of the Union's economy and securing the sustainability of public finances.**

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<sup>1</sup> OJ L [...] [...], [...].

- (2) Council Regulation (EC) No 1338/2001<sup>1</sup> of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting provides for exchanges of information, cooperation and mutual assistance, thereby establishing a harmonised framework for the protection of the euro. The ~~application effects of this~~ Regulation ~~was~~ **extended by Council Regulation (EC) No 1339/2001** to those Member States that have not adopted the euro as their single currency, so as to provide an equivalent level of protection of the euro throughout the Union.
- (3) Activities with the aim of promoting exchanges of information and staff, technical and scientific assistance and specialised training help significantly to protect ~~Europe~~ **the Union's** single currency against counterfeiting and related fraud and therefore to attain a high and equivalent level of protection across the Union, **whilst demonstrating the Union's ability to tackle serious organised crime.**
- (3a) The Pericles programme contributes to awareness raising of EU citizens, improving the protection of the euro, especially through the constant dissemination of results of activities supported by the programme.**
- (4) Past support for such ~~initiatives~~ **activities**, through Council Decision 2001/923/EC of 17 December 2001 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the "Pericles" programme)<sup>2</sup> **and Council Decision 2001/924/EC of 17 December 2001 extending the effects of the Decision establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting ("Pericles" programme) to the Member States which have not adopted the euro as the single currency, subsequently amended and extended by Council Decisions 2006/75/EC, 2006/76/EC<sup>3</sup>, 2006/849/EC and 2006/850/EC**, has made it possible to enhance the activities of the Union and the Member States in the field of the protection of the euro against counterfeiting. The objectives of the Pericles programme for both the period 2002-2006 and the period 2007-2013 were successfully achieved.

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<sup>1</sup> OJ L 181M 4.7.2001, p. 6.

<sup>2</sup> Council Decision 2001/923/EC of 17 December 2001, OJ L 339, 21.12.2001, p. 50.

<sup>3</sup> Council Decision 2006/76/EC of 30 January 2006 extending to the non-participating Member States the application of Decision 2006/75/EC amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the Pericles programme) (OJ L 36, 8.2.2006., p.42.).

- (5) ~~The Commission carried out an~~ **In its** impact assessment, **carried out** in 2011, so as to evaluate whether or not the programme should be continued, **the Commission came to the conclusion that the Programme should be renewed with improved objectives and methodology.**
- (6) **The impact assessment advised t**o continue and further develop activities at the level of the Union and the Member States in the field of the protection of the euro against counterfeiting, also taking into account the new challenges in a context of budgetary austerity. Under the new Programme, proposals presented by the participating Member States may include participants from third countries, if their presence is important for the protection of the euro.
- (7) It should be ensured that ~~this Union action~~ **Pericles 2020** programme is consistent with, and complementary to, other **relevant** programmes and activities. **Therefore t**he Commission should carry out all the necessary consultations with regard to evaluating needs for the protection of the euro with the principal parties involved (in particular the competent national authorities designated by the Member States, the ECB and Europol) within the ~~appropriation advisory committee provided for~~ **referred to** in Regulation (EC) No 1338/2001, particularly as regards exchanges, assistance and training, for the purpose of ~~implementing this~~ **the application of the Pericles 2020** programme.
- (8) ~~This Regulation~~ programme shall **should** be implemented in full compliance with the provisions of Regulation (EU, Euratom) No **966/2012 of the European Parliament and of the Council of 25 October** 2012 on the financial rules applicable to the ~~annual general~~ budget of the European Union. ~~The financial interests of the European Union 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, penalties.~~ **In accordance with Article 121 of that Regulation, a grant may not have as its sole purpose the purchase of equipment. A grant is meant to support financially an action intended to help to achieve an objective forming part of a Union policy.**
- (8a) **The importance of the euro as a worldwide currency requires an adequate level of protection at international level, which can be achieved by making funds available for the purchase of equipment to be used by third countries' agencies in investigating euro counterfeiting**

- (9) The evaluation of the **Pericles** programme conducted with stakeholders demonstrates the **added** value ~~added~~ of the ~~Pericles~~ programme, in terms of the high level of cooperation among Member States and with third countries, as well as complementarity with activities taken at national level, resulting in increased effectiveness. The continuation of the Pericles programme at Union level is expected to make a substantial contribution to maintaining and further improving the high level of protection of the euro associated with the intensification of cross-border cooperation, exchanges and assistance. At the same time, overall savings will be achieved from the collectively organised activities and procurement, as compared to potential individual national initiatives.
- (10) The Commission should present to the European Parliament and to the Council an independent ~~interim~~ **mid-term evaluation** report on the implementation of the programme and a final **evaluation** report on the achievement of its objectives.
- (11) This Regulation complies with the principles of added value and proportionality. The Pericles **2020** programme **should** facilitates cooperation among the Member States and between the Commission and the Member States in order to protect the euro against counterfeiting, without impinging on Member States' responsibilities, and using resources more efficiently than could be done at national level. Action at Union level is necessary and justified as it clearly assists Member States in collectively protecting the euro and encourages the use of common Union structures to increase cooperation and information exchange between competent authorities.
- (12) The **Pericles 2020** programme ~~will~~ **should** run for a period of seven years to align its duration with that of the multiannual financial framework laid down in [Article 1] of the Council Regulation laying down the multiannual financial framework for the years 2014-2020.

- (13) **In order to ensure uniform conditions for the implementation of the Programme, implementing powers should be conferred on the Commission.** The Commission should adopt the annual work programmes setting out the priorities, the budget breakdown and the evaluation criteria for the grants for actions. ~~In order to ensure uniform conditions for~~ **The Commission should discuss with the Member States on the implementation application** of this Regulation, ~~implementing powers should be conferred to the Commission in the framework of the committee referred to in Regulation (EC) No 1338/2001.~~ **The exceptional and duly justified cases, in which an increase in co-financing is necessary in order to give the Member States greater economic flexibility, thus enabling them to carry out and complete projects to protect and safeguard the euro in a satisfactory manner, will be part of the annual work programme.**
- (14) This Regulation lays down; **a financial envelope** for the entire duration of the programme, a ~~financial allocation~~ **which is to constitute** the prime reference **amount**, within the meaning of Point [176] of the Interinstitutional Agreement of XX/YY/201Z between the European Parliament, the Council and the Commission **on budgetary discipline**, on cooperation in budgetary matters and on sound financial management, for the ~~budgetary authority~~ **European Parliament and the Council** during the annual budgetary procedure.
- (14a) **In order to provide for a detailed but flexible framework for implementation, the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend the indicative allocation of funds. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. the Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.**
- (15) The financial interests of the Union should be protected through ~~proportionate~~ **appropriate** 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, penalties.

**(15a) Decisions 2001/912/EC, 2001/923/EC, 2006/75/EC, 2006/79/EC, 2006/849/EC and 2006/850/EC should be repealed. Transitional measures should be provided to complete financial obligations relating to activities pursued under those Decisions.**

**(15b) It is appropriate to align the duration of the Programme with the Council Regulation laying down the multiannual financial framework for the years 2014-2020<sup>1</sup>. Therefore, this Programme should apply as from 1 January 2014. For reasons of urgency, this Regulation should enter into force as soon as possible after its publication in the Official Journal of the European Union**

HAVE ADOPTED THIS REGULATION:

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<sup>1</sup> OJ [...], [...], p. [...].

## Chapter I

### General provisions

#### *Article 1*

##### *Subject matter*

The multiannual action programme **to promote actions for the protection and safeguarding of the euro against counterfeiting and related fraud** "Pericles 2020" (hereinafter referred to as "the Programme") is hereby established ~~to promote actions for the protection and safeguarding of the euro against counterfeiting and related fraud.~~ **The Programme should run for the period** from 1 January 2014 to 31 December 2020.

#### *Article 2*

##### *Added value*

The Programme shall ~~contribute to~~ **actively encourage and entail an increased** in transnational cooperation for the protection of the euro ~~at inside and outside the Union level and internationally and with the Union's trading partners, and with attention also being paid to those Member States or third countries that have the highest rates of euro counterfeiting, as shown by the relevant reports issued by the competent authorities; this cooperation shall contribute~~ to the greater effectiveness of these operations ~~on the basis~~ **through the sharing** of best practice, common standards and joint specialised training.

#### *Article 3*

##### *General objective of the Programme*

The general objective of the Programme shall be to prevent and combat counterfeiting and **related fraud** thus enhancing the competitiveness of the ~~European~~ **Union's** economy and securing the sustainability of public finances.



## Article 4

### *Specific objective of the Programme*

The specific objective of the Programme shall be to protect the euro banknotes and coins against counterfeiting and related fraud, by supporting and supplementing the measures undertaken by the Member States and assisting the competent national and ~~European~~ **Union** authorities in their efforts to develop between themselves and with the **European** Commission a close and regular cooperation **and an exchange of best practices**, also **where appropriate** including third countries and international organisations.

This objective shall be measured, inter alia, through the effectiveness of action by financial, technical, law-enforcement and judicial authorities, as measured through the number of counterfeits detected, illegal workshops dismantled, individuals arrested and ~~sanctions~~ **penalties** imposed.

## Article 5

### *Bodies eligible for funding*

Bodies eligible for funding under the Programme are the ~~national~~ competent **national** authorities of ~~Member States~~, as defined in Article 2(b) of Regulation (EC) No 1338/2001.

## Article 6

### *Participation in the Programme*

1. Participating countries shall be the Member States having adopted the euro as their single currency.
2. The proposals presented by these Member States **referred to in paragraph 1** may include participants from ~~other~~ **third** countries, if ~~their~~ **presence** is important for the ~~protection of the euro~~ **fulfilment of the objectives of the Programme**.

## Article 7

### *Target groups and joint ~~activities~~ actions*

1. The Programme shall target participation of the following groups:
  - (a) staff of agencies engaged in detecting and combating counterfeiting (in particular police forces and financial administrations, depending on their specific functions at national level);
  - (b) intelligence personnel;
  - (c) representatives of the national central banks, the mints, commercial banks and other financial intermediaries (particularly as regards the obligations of financial institutions);
  - (d) judicial officers ~~and~~, specialist lawyers **and members of the judiciary** in this field;
  - (e) any other group of specialists concerned (such as chambers of commerce and industry or comparable structures capable of providing access to small and medium-sized enterprises, retailers and cash-in-transit companies).
  
2. ~~Activities~~ **Actions** under the Programme may be organised jointly by the Commission and other partners having relevant expertise, such as:
  - (a) the national central banks and the **European Central Bank** (ECB);
  - (b) the National Analysis Centres (NACs) and the Coin National Analysis Centres (CNACs);
  - (c) the European Technical and Scientific Centre (ETSC) and the ~~national~~ mints;
  - (d) Europol, **Eurojust and** Interpol ~~and Eurojust~~;

- (e) the national central anti-counterfeiting offices provided for in Article 12 of the International Convention for the Suppression of Counterfeiting Currency signed at Geneva on 20 April 1929<sup>1</sup> and other agencies specialising in prevention, detection and law enforcement in connection with counterfeiting;
- (f) specialist bodies concerned in the field of duplication and certification technologies, printers and engravers;
- (g) ~~any~~ other bodies offering specific expertise, including, where appropriate, such bodies from third countries and in particular from accession candidate countries;
- (ga) private entities that have developed and provided evidence of technical knowledge and teams specialising in detecting counterfeit notes and coins.**

#### *Article 8*

##### *Eligible ~~activities~~ actions*

1. The Programme shall take into account the transnational and multidisciplinary aspects of the fight against counterfeiting and shall promote best practices adapted to the national specificities of each Member State.
2. The Programme shall ~~support activities in line with the objectives laid down in Articles 3 and 4, in particular~~ **provide, under the conditions set out in the annual work programmes referred to in Article 11, financial support for the following actions:**
  - (a) Exchange **and dissemination** of information, in particular through organising workshops, meetings and seminars **including training**, targeted placements and exchanges of staff of competent national authorities and other similar actions. The exchange of information will **inter alia** be targeted ~~inter alia~~ at:
    - methodologies for monitoring and analysing the economic and financial impact of counterfeiting;
    - operation of databases and early warning systems;

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<sup>1</sup> League of Nations Treaty Series No 2623 (1931), p. 372.

- use of detection tools with computer back-up;
- enquiry and investigation methods;
- scientific assistance (in particular scientific databases and technology watch/monitoring of new developments);
- protection of the euro outside the ~~European~~ Union;
- research activities, ~~and~~;
- provision of specific operational expertise.

(b) Technical, scientific and operational ~~support~~ **assistance, as appears necessary as part of the Programme** including in particular:

- any **appropriate** measure which establishes teaching resources at ~~European~~ Union level (handbook of ~~EU~~ **Union** legislation, information bulletins, practical manuals, glossaries and lexicons, databases, especially in the area of scientific assistance or technology watch) or computer support applications (such as software);
- relevant studies with a multidisciplinary and transnational dimension;
- development of technical support instruments and methods to facilitate detection actions at ~~European~~ Union level;
- financial support for cooperation in operations involving at least two states when such support is not available from other programmes of European institutions and bodies.

(c) Grants to finance the purchase of equipment to be used by specialised anti-counterfeiting authorities for protecting the euro against counterfeiting, **in compliance with Article 10(3)**.

## Chapter II

### Financial framework

#### *Article 9*

##### *Financial ~~allocation~~ envelope*

1. The financial ~~allocation~~ **envelope** for the implementation of the Programme for the period from 1 January 2014 to 31 December 2020 ~~shall be~~ **is set at** EUR [7 700**344** 000 ] (in current prices).
- 1a. **Within the financial envelope for the programme, amounts shall be allocated to eligible actions listed in Article 8(2) in accordance with the indicative allocation of funds laid down in the Annex.**

**The Commission shall not depart from said indicative allocation of funds by more than 10 %. Should it prove necessary to exceed that limit, the Commission shall be empowered to adopt delegated acts in accordance with Article 9a to modify the indicative allocation of funds laid down in the Annex.**

2. **The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.**

#### *Article 9a*

##### *Exercise of the delegation*

1. **The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.**
2. **The power to adopt delegated acts referred to in Article 9 shall be conferred on the Commission from 1 January 2014 to 31 December 2020.**

3. **The delegation of power referred to in Article 9 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.**
4. **As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.**
5. **A delegated act adopted pursuant to Article 9 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.**

*Article 10*

***Types of ~~f~~Financial assistance support and co-financing***

1. **The Commission shall implement the Programme in accordance with the Financial Regulation (EU, Euratom) No 966/2012.**
2. **~~Union funding~~ Financial support under the Programme for activities actions provided for in Article 8 shall take the form of:**
  - (a) grants;
  - (b) public procurement.
3. **The purchase of equipment shall not be the sole component of the grant agreement.**
4. **The co-financing rate for grants awarded under the Programme shall not exceed ~~80~~75 % of the eligible costs. In exceptional and duly justified cases, defined in the annual work programmes referred to in Article 11, the co-financing rate shall not exceed 90 % of the eligible costs.**

5. Where the ~~activities~~ **actions** provided for in Article 8 are organised jointly with ~~other partners such as~~ the ECB, Eurojust, Europol or Interpol, the ensuing expenses shall be divided between the partners. In any event, each partner shall bear the travel and accommodation costs of its own guest speakers.

## *Article 11*

### *Annual work programmes*

In order to implement the Programme, the Commission shall adopt annual work programmes.

~~They~~ **Each annual work programme shall set out implement** the objectives pursued, ~~the expected results,~~ **of the Programme by setting out the following:**

- a. **The actions to be undertaken in accordance with the general and specific objectives as set out in Articles 3 and 4, including the indicative allocation of financial resources and the method of implementation and their total amount.** ~~They shall also contain a description of the actions to be financed, an indication of the amount allocated to each action and an indicative implementation timetable.;~~
- b. ~~They shall include~~ **For grants: the priorities, the essential evaluation selection criteria and the maximum possible rate of co-financing.**

~~Budget~~ **Resources** allocated to communication actions ~~to be carried out by the Commission under the Regulation~~ **Programme** shall also **contribute to** cover the corporate communication of the **Union's** political priorities ~~of the European Union,~~ **as far as they are related to the general objectives of the Programme.**

## Chapter III

### Monitoring and evaluation

#### Article 12

##### *Monitoring, evaluation and management*

1. The Programme shall be implemented by the Commission in cooperation with the Member States, through **regular** consultations at different stages of the implementation of the Programme, within the ~~appropriate advisory committee provided for~~ **referred to** in Regulation (EC) No 1338/2001, taking into account relevant measures undertaken by other competent entities, in particular the ECB and Europol.
2. The Commission shall seek to ensure consistency and complementarity between ~~this European Union action~~ Programme and other relevant programmes and ~~activities~~ **actions at Union level**.
23. The Commission shall provide annual information on the results of the Programme to the European Parliament and to the Council. Information on consistency and complementarity with other **relevant** programmes and ~~activities~~ **actions** at Union level shall be included. The Commission shall constantly disseminate the results of the ~~activities~~ **actions** supported under the Programme. All participating countries **and other beneficiaries** shall provide the Commission with all the data and information necessary to permit the monitoring and evaluation of the Programme.
34. An evaluation of the Programme shall be carried out by the Commission. ~~No later than~~ **By** 31 December 2017, an **independent mid-term** evaluation report shall be ~~established~~ **presented** by the Commission on the achievement of the objectives of all the measures (at the level of results and impacts), the ~~efficiency of the~~ **and cost effective** use of resources and its ~~European added value, in~~ **to the Union. The evaluation report should be prepared with a view of to informing** a decision on the renewal, modification or suspension of the measures. The evaluation shall additionally address the scope for simplification, its internal and external coherence, the continued relevance of all objectives, as well as the contribution of the measures to the Union's priorities of smart, sustainable and inclusive growth. It shall take into account evaluation results on the long-term impact of the predecessor measures.



5. The longer-term impacts and the sustainability of effects of the Programme shall **also** be evaluated with a view to ~~feed into~~ **informing** a decision on a possible renewal, modification or suspension of a subsequent programme.
46. In addition, by 31 December 2021, the Commission shall present to the European Parliament and to the Council a **final evaluation** report on the achievement of the objectives of the Programme.

### *Article 13*

#### *Protection of the financial interests of the ~~European~~ Union*

1. The Commission shall take appropriate measures ensuring that, when ~~activities~~ **actions** financed under this Regulation are implemented, the financial interests of the Union are protected ~~through~~ **by** the application of preventive measures against fraud, corruption and any other illegal activities, ~~through~~ **by** effective checks and, if irregularities are detected, ~~through~~ **by** the recovery of the amounts wrongly paid and, where appropriate, **by** effective, proportionate and ~~deterrent~~ **dissuasive administrative and financial** penalties.
2. The Commission or its representatives and 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.
3. The European Anti-Fraud Office (OLAF) may carry out **investigations, including** on-the-spot checks and inspections ~~on economic operators concerned directly or indirectly by such funding~~, in accordance with the **provisions and** procedures laid down in Regulation (EU, Euratom, EC) No ~~2185/96~~ **883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) 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** 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~~ **under the Programme.**

4. Without prejudice to ~~the first and second~~ paragraphs **1, 2 and 3**, cooperation agreements with third countries and **with** international organisations ~~and, contracts~~, grant agreements and grant decisions ~~and contracts~~ resulting from the implementation of this Regulation shall **contain provisions** expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits, ~~on the spot checks and inspections~~ **investigations, according to their respective competences.**

## Chapter IV

### Final provisions

#### *Article 14*

#### *Repeal*

Council Decisions 2011/923/EC<sup>1</sup>, 2001/912/EC<sup>2</sup>, 2006/75/EC<sup>3</sup>, 2006/79/EC<sup>4</sup>, 2006/849/EC<sup>5</sup> and 2006/850/EC<sup>6</sup> are repealed.

However, financial obligations relating to activities pursued under those Decisions shall continue to be governed by those Decisions until their completion.

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<sup>1</sup> OJ L 339, 21.12.2001, p. 50.

<sup>2</sup> OJ L 339, 21.12.2001, p. 55.

<sup>3</sup> OJ L 36, 8.2.2006, p. 40.

<sup>4</sup> OJ L 36, 8.2.2006, p. 42.

<sup>5</sup> OJ L 330, 28.11.2006, p. 28.

<sup>6</sup> OJ L 330, 28.11.2006, p. 30.

*Article 15*

*Entry into force*

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

It shall apply ~~as of~~ **from** 1 January 2014.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

*For the European Parliament*

*For the Council*

*The President*

*The President*

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## Annex

### *Indicative allocation of funds for eligible actions listed in Article 8(2)*

**Within the financial envelope for the programme, a minimum of 90 % of the budget shall be allocated to the following eligible actions listed in Article 8 (2):**

- **Exchange and dissemination of information;**
  - **Technical, scientific and operational assistance;**
  - **Grants to finance the purchase of equipment to be used by specialised anti-counterfeiting authorities.**
-