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NOTE

From:	General Secretariat of the Council
To:	Delegations
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Subject:	Proposal for a Council Regulation on amending Regulation (EU) 2021/1173 as regards EuroHPC - Third Presidency text

Delegations will find attached the third Presidency text on the *Proposal for a Council Regulation amending Regulation (EU) 2021/1173 on establishing the European High Performance Computing Joint Undertaking and repealing Regulation (EU) 2018/1488*, with a view to the Research Working Party meeting on 27 October 2025.

Changes in comparison to the document 12918/25 are marked in **bold and underlined** for additions and in ~~strikethrough~~ for deletions.

2025/0229 (NLE)

COUNCIL REGULATION EU/....

of ...

**amending Regulation (EU) 2021/1173 on establishing the European High Performance
Computing Joint Undertaking and repealing Regulation (EU) 2018/1488**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament¹,

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

¹ OJ C , , p. .

² OJ C [...], [...], p. [...]

Whereas:

- (1) Regulation (EU) 2024/1689 of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) aims to improve the functioning of the internal market by laying down a uniform legal framework, in particular for the development, marketing and use of artificial intelligence in conformity with Union values **and legislation**.
- (2) Since 2021, when Council Regulation (EU) 2021/1173 was adopted, the field of artificial intelligence (AI) has seen enormous technical progress and become a highly strategic and contested domain globally. The European Union is at the forefront of efforts to support responsible innovation in AI, by guiding innovation, setting guardrails, and developing global governance.
- (3) Large general purpose AI models have emerged as vital drivers of economic competitiveness, scientific research and innovation. They become pivotal in enhancing productivity across diverse sectors and transform entire value chains, thus dictating future economic value capture. The Union and Member States are running initiatives on the development of joint AI models, including foundation models. The next generation of frontier AI models are expected to unlock a leap in capabilities, towards the next generation of AI capable of tackling highly complex and diverse tasks. Regions capable of developing and implementing these AI models at scale will lead in global innovation and attract premier talent in science and industry. At the same time, sectors at the forefront of science and industry demand substantial computing resources to undertake major AI-driven scientific discoveries and industrial innovations. Synergies between these activities and those undertaken by Union programmes, such as the EU Space Programme, will be exploited, with appropriate safeguards in place to protect the strategic interests of the Union and its Member States.

- (4) The most advanced AI Factories in Europe will be equipped with supercomputers featuring up to 25 000 advanced AI processors, which are only capable of developing middle-range AI models. Significant investments are therefore needed to scale up Europe's computing capacities to the next level.
- (5) On 9 April 2025, the Commission launched the AI Continent Action Plan³ to position the Union as a global leader in AI. A core pillar of this strategy is boosting the Europe-wide infrastructure for training advanced AI models taking the 2024 AI Factories concept up to the next level.
- (6) The development of the next generation of frontier AI models is expected to require large-scale facilities, exceeding at least by three to four times the number of the most advanced AI processors available in the most powerful AI Factories, while taking into account power capacity, as well as energy, water efficiency and circularity. The existing mechanisms within Regulation 2021/1173 are not currently equipped to support the establishment and operation of the AI Gigafactories. A targeted amendment is therefore necessary to provide the European High Performance Computing Joint Undertaking (the 'Joint Undertaking') with the legal basis needed to be able to meet the commitments regarding the establishment and operation of AI Gigafactories in Europe.
- (7) Strengthening the scientific and technological bases of the Union is increasingly vital for its long-term competitiveness and strategic autonomy, while preserving an open economy in the Union. Indeed, AI has the potential of accelerating scientific discovery and enhancing research capabilities across all domains. It is therefore essential that, in addition to researchers, private and public AI users, in particular SMEs, start-ups and scale-ups, within the Union benefit from world-class supercomputing infrastructures in order to sustain and advance Europe's leadership in research and innovation.

³ <https://digital-strategy.ec.europa.eu/en/news/commission-sets-course-europes-ai-leadership-ambitious-ai-continent-action-plan>

- (8) The European Commission's Competitiveness Compass (the 'Compass'), adopted on 29 January 2025, identifies strategic technologies including quantum technologies and high-performance computing as essential pillars to ensure Europe's technological sovereignty, economic resilience, and global leadership. The Compass stresses the need for coordinated investments and ecosystem development across research, infrastructure, industry, and skills to strengthen the Union's competitiveness in these fields.
- (9) Complementing the Compass, the Communication from the Commission of 2 July 2025 entitled 'Quantum Europe Strategy: Quantum Europe in a Changing World' sets out a comprehensive framework to accelerate quantum research, innovation, industrialisation, and deployment of quantum technologies and infrastructures. It aims to build a sustainable and competitive quantum ecosystem, covering computing, communication, sensing and metrology, with a strong focus on skills development as well as on international cooperation.
- (10) In view of the policy importance of this initiative, the amounts initially allocated from Horizon Europe, Digital Europe Programme and the Connecting Europe Facility should be increased to allow the Union to reach its objective, subject to budgetary availability.
- (11) Given the rapid technological developments in the Quantum and AI fields and the Union AI policy, possible additional Union financing could be required in the coming years. In terms of this specific policy context, it should be possible to entrust to the Joint Undertaking additional Union funding going beyond the amounts set out in Article 5(1) from existing programmes. Such additional contribution when targeted at AI Gigafactories should be at least matched by one or more members of the Joint Undertaking other than the Union.

- (12) A Member State that intends to support the establishment and use of an AI Gigafactory may allocate part of the financial contribution it receives under Regulation (EU) 2021/241 of the European Parliament and of the Council⁴ to cover, in whole or in part, its voluntary financial contribution to such an AI Gigafactory. That contribution is to be managed and disbursed by the Joint Undertaking on the basis of a mutual agreement between the Member State and the Joint Undertaking. Where that AI Gigafactory is subsequently selected for funding by the Governing Board of the Joint Undertaking, the funding will be complemented by funding from the Union as set out in this Regulation. In case the AI Gigafactory supported by the Member State is not selected, the amount shall be allocated under the management of the Joint Undertaking to another investment in the field of AI **or Quantum Computing** identified by the Member State in its Recovery and Resilience Plan, without a Union contribution. **With the signature of a contribution agreement and the full and irrevocable transfer of the designated RRF funds to the EuroHPC at the latest by 31 August 2026 will be considered as meeting the hard deadline set in Regulation (EU) 2021/241.** This mechanism would provide a flexible and secure means for Member States to commit and channel significant national resources, in particular from the Recovery and Resilience Facility (RRF), in support of AI **and digitalisation** activities.
- (12a) In order to accelerate the development of any strategic infrastructures such as High Performance Computers (HPCs), AI factories or Quantum Computers across the Union, Member States may decide to use their remaining RRF allocations to finance their national contributions to AI factories, HPCs or Quantum Computers or another investment identified by the Member State in a Recovery and Resilience Plan **and related to the objectives of the Joint Undertaking**. To this end, Member States should be permitted to provide contributions to the Joint Undertaking which shall manage and disburse such funds to the identified investment on behalf of the Member State. This mechanism provides a flexible and secure pathway for Member States to commit and channel significant national resources, in particular from the RRF, in support of the strategic priorities related to HPC, AI and Quantum.

⁴ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 [establishing the Recovery and Resilience Facility](#) (OJ L 057 18.2.2021, p. 17).

(12b) AI, High Performance Computing (HPC) and quantum computing service and data infrastructures are essential for advancing scientific research and innovative industrial applications across the Union. In addition to joint investments in infrastructures and ecosystems under the Joint Undertaking, Member States may use funds from programmes co-financed by structural and regional funds, the Recovery and Resilience Facility (RRF), or national programmes to invest in the acquisition and operation of new, advanced, state-of-the-art AI, HPC and quantum computing service and data infrastructures established in their territory. The wide networking and federation of these advanced national public AI and compute service and data infrastructures at EU level will create an integrated, federated, secure and hyper-connected world-class AI, HPC and quantum computing service and data infrastructures and ecosystems in the Union that promotes scientific excellence, fosters innovative application development, and attracts talent, delivering benefits that extend well beyond the users of the Member States. While not contributing to their financing, the Joint Undertaking can facilitate the interconnection and federation of these advanced national public infrastructures together with those at the Union level, provided this is requested and duly motivated by interested Member States. The Joint Undertaking would award such national public infrastructures a “EuroHPC AI and Compute Infrastructure Seal” and ensure their networking and federation with the network of AI factories and quantum computers.

(12c) To be able to address the demand of users for AI computing resources, the concerned Member States ~~may~~ provide to the Joint Undertaking **with** an **agreed** amount of access time to these national public AI, HPC or quantum infrastructures that having been awarded the EuroHPC AI and Compute Infrastructure Seal.

- (12d) To be able to address the ever growing demand of users to AI compute facilities, the Member States may provide to the Joint Undertaking access time to one or more of their EuroHPC AI Factories or EuroHPC AI Gigafactories which is available, namely that has not already been committed. In this case, Member States should provide to the Joint Undertaking on a voluntary basis a reasonable share of access time to their EuroHPC AI Factories or EuroHPC AI Gigafactories in order for the Joint Undertaking to be able to address the user demand. This access time shall be primarily used to grant access to start-ups and SMEs for their research or innovation activities. Such provision of access time should not be accounted as financial or in-kind contribution of the Member State to the Joint Undertaking.**
- (13) Additional Union contributions to AI Gigafactories from other programmes, not listed in Article 5(1), should also be possible, through the signature of specific ad hoc contribution agreements, subject to commensurate contribution by one or more members of the Joint Undertaking other than the Union.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 2021/1173 is amended as follows:

(1) Article 2 is amended as follows:

(a) the following point (3c) is added:

(3c) ‘Artificial Intelligence Gigafactory’ or ‘AI Gigafactory’ means a state-of-the-art large-scale facility with sufficient capacity to handle the complete lifecycle – from development, ~~training, fine-tuning, and~~ to large-scale inference – of very large AI models and applications, providing a supercomputing service infrastructure, which is composed of AI-optimised computing capacity, a supporting data centre infrastructure (including high-capacity storage and networking), dedicated secure cloud user access environments, and specialised secure AI-oriented support services for its advanced operations, all of which are supported by an environmentally sustainable infrastructure, in particular for energy and water supply system.

(b) the following point (3d) is added:

(3d) ‘Artificial Intelligence Gigafactory Consortium’ or ‘AI Gigafactory Consortium’ means an association of eligible legal entities duly established in the Union coming together in a consortium for the purpose of establishing and operating an AI Gigafactory and specifying the respective roles and responsibilities of these entities for the lifetime of the AI Gigafactory, or a new legal entity established for the purpose of establishing and operating an AI Gigafactory, that has a legal form recognised in any Member State. The AI Gigafactory Consortium shall be established for a minimum duration of five years. One or more of the private partners of such consortium may be participating in the Private Members of the Joint Undertaking.

(c) the following point (3e) is added:

(3e) ‘AI Gigafactory Coordinator’ means a legal entity, duly incorporated in the Union and validly existing under the laws of a Member State of establishment, which is legally authorised to represent the AI Gigafactory Consortium and has the legal capacity and authority to enter into, execute, and perform the AI Gigafactory Hosting Agreement; the AI Gigafactory Coordinator shall be headquartered in the Union and shall be under control, directly or indirectly, through ownership interest or via other means, as defined in Chapter IV of Regulation (EU) No 2024/1624 and relevant Union competition law principles, of legal entities or natural persons established within the Union. The coordinator may also be an existing hosting entity representing a Participating State that is a Member State or a hosting consortium of Participating States.

(d) the following point (3f) is added:

(3f) ‘AI Gigafactory Hosting Agreement’ means an administrative agreement between the Joint Undertaking and the AI Gigafactory Coordinator to host and operate an AI Gigafactory.

(e) the following point (3g) is added:

(3g) ‘AI Gigafactory hosting entity’ means a legal entity which has been designated by the AI Gigafactory Consortium to host and operate an AI Gigafactory and its services, and which is established in a Participating State that is a Member State.

(f) the following point (3h) is added:

(3h) ‘Artificial Intelligence Gigafactory Cooperation Agreement’ is an agreement between the Joint Undertaking and a third country specifying access conditions to the Union share of access to AI Gigafactories for the legal entities under control, directly or indirectly, through ownership interest or via other means, of legal entities or natural persons established in that third country.

(g) the following point (19a) is added:

(19a) ‘National Quantum Competence Centre’ means a legal entity, or a consortium of legal entities, established in a Participating State, providing users from industry, including SMEs, academia **and research performing organisations**, and public administrations with access on demand to quantum technologies, tools, applications and services, as well as to national or European quantum infrastructures, and offering expertise, skills, training, networking and outreach.

(2) Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. The mission of the Joint Undertaking shall be to develop, deploy, extend and maintain in the Union a world-leading federated, secure, interoperable and hyper-connected supercomputing, quantum computing, service and data infrastructure ecosystem. It shall support the development and uptake of demand-oriented and user-driven innovative and competitive supercomputing systems and quantum technologies and systems and the development of a wide range of applications optimised for these systems. This should be based on a supply chain that will ensure components, technologies and knowledge are available, in order to limit the risk of disruptions and dependencies, while reinforcing the strategic autonomy and the technological sovereignty of the Union. It shall, furthermore, widen the use of that supercomputing infrastructure to a large number of public and private users and support the twin transition and the development of key skills for European **workforce in** science and industry.

- (b) The following point (fa) is added to paragraph 2:
- (fa) to support state-of-the-art fundamental and applied research and innovation in quantum technologies, their transition from the lab-to-the-fab, and their deployment, uptake and integration in world-class quantum infrastructures, for building a dynamic, innovative, sustainable and resilient quantum ecosystem across the EU, and for ensuring scientific and industrial leadership, competitiveness, strategic autonomy and technological sovereignty of the Union in quantum computing, communication and sensing.
- (c) point (h) in paragraph 2 is replaced by the following:
- (h) to develop and operate the Artificial Intelligence Factories, and to support the establishment of and access to Artificial Intelligence Gigafactories and their services for building a dynamic, innovative, **sustainable** and resilient AI ecosystem across the EU, and ensuring scientific and industrial leadership.
- (d) paragraph 3 is replaced by the following:
3. The Joint Undertaking shall contribute to safeguarding the interests of the Union when procuring supercomputers and supporting the development and uptake of High-Performance Computing and quantum technologies, systems and applications. It shall enable a co-design approach for the acquisition of world-class supercomputers, while safeguarding the security of the supply chain of procured technologies and systems. It shall contribute to the Union's strategic autonomy, while preserving an open economy in the Union, support the development of technologies and applications reinforcing the European High-Performance Computing and Quantum Technologies supply chains and promote their integration in systems that address a large number of scientific, societal, environmental, industrial as well as security use needs.

(3) Article 4 is amended as follows:

(a) the following point (i) is added to paragraph 1:

- (i) AI Gigafactory pillar, covering activities of AI Gigafactories, which in their operation may be connected with the EuroHPC network of AI Factories for ensuring seamless integration, user support and knowledge sharing across the European AI ecosystem; this pillar shall include the following activities:
 - (i) providing a world-class AI computing infrastructure for European researchers, entrepreneurs, industries, **including SMEs, start-ups, scale-ups,** and public sectors,
 - (ii) enabling the development of new AI solutions across all public and private sectors, **including the development of foundation models,** and
 - (iii) ensuring the Union's competitiveness and sovereignty as an AI continent.

(b) the following point (j) is added to paragraph 1:

- (j) quantum technologies pillar, addressing the full quantum ecosystem and the application domains of quantum computing and simulation, quantum communication, and quantum sensing and metrology, ensuring the security and resilience of the quantum supply chain and its enabling technologies. Activities shall inter alia address:
 - (i) Scientific and Technological Research and Innovation: Advancing research excellence in quantum science and technology domains.

- (ii) Transition from the lab-to-the-fab and ecosystem development:
Supporting the development and deployment of state-of-the-art quantum infrastructures; fostering the industrialisation of quantum technologies by supporting the uptake of quantum applications in key public and industrial sectors, ensuring the translation of advances across all quantum domains into real-world applications, including the development of lead markets; promoting European and international standards; ~~and, supporting the development and networking of national quantum competence centres across Europe.~~

iiia) The acceleration of the development and operationalisation of fault-tolerant quantum computing systems.

- (iii) Skills and Talent: Developing a competitive and inclusive quantum research and engineering workforce through coordinated education, training and mobility initiatives, across key quantum-related disciplines and technical fields.
- (iv) International cooperation: Developing international collaboration in quantum technologies to solve global scientific and societal challenges, in line with the external policy objectives and international commitments of the Union.

(4) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. The Union financial contribution to the Joint Undertaking including EEA appropriations shall be up to EUR 4 122 300 000 including EUR 92 000 000 for administrative costs, on the condition that that amount is at least matched by the contribution of Participating States, distributed indicatively as follows:

- (a) up to EUR 1 660 000 000 from Horizon Europe, **including EUR 160 000 000 for the implementation of Quantum research and innovation activities**

- (b) up to EUR 2 142 300 000 from the Digital Europe Programme
- (c) up to EUR 320 000 000 from the Connecting Europe Facility.

Additional funds from Horizon Europe, the Digital Europe Programme and the Connecting Europe Facility may complement the Union contribution referred to in the first subparagraph, on the condition that the additional amounts are at least matched by the contribution of one or more members of the Joint Undertaking other than the Union. ~~Such additional Union contribution shall be dedicated exclusively to the pillar referred to in Article 4(1)(i).~~ [These additional funds shall not be accounted for in the calculation of the Union maximum financial contribution.]

- (b) Paragraph 3 is replaced by the following:

- 3. Additional funds from any Union programme other than, and complementing, the ones referred to in paragraph 1 of this Article may be allocated to the Joint Undertaking to support its pillars of activities referred to in Article 4, except those referred to in Article 4(1), subparagraph (a). These additional funds shall not be accounted for in the calculation of the Union maximum financial contribution.

- (c) A new point (a) is added to paragraph 4:

- (a) For the contributions entrusted to the Joint Undertaking in accordance with paragraph 3 and 4 of this Article, the requirements of Article 158 of Regulation (EU, Euratom) 2024/2509 are applicable. When these additional Union contributions are related to the pillar referred to in Article 4(1)(i), one or more of the members other than the Union shall make additional contributions commensurate to the amount of the Union contributions.

- (d) paragraph 6 is deleted.

- (e) paragraph 7 is deleted.

- (f) paragraph 8 is deleted.

- (5) The following Article 12b is added:

‘Article 12b’

Artificial Intelligence Gigafactory

1. An AI Gigafactory shall be located in **a Participating State that is a Member State**~~the European Union~~. It shall be financially supported by a partnership between the Union and one or more Participating States, represented through the Joint Undertaking, and an AI Gigafactory Consortium, which may include one or more technology infrastructure suppliers, legally represented by an AI Gigafactory Coordinator. **Each Participating State of the AI Gigafactory partnership shall conclude an administrative agreement with the Joint Undertaking laying down the coordination mechanism for the payment of and reporting on contributions to applicants established in that Participating State. Such an agreement shall include the schedule, conditions of payment, reporting and audit requirements.**
2. Participation in an AI Gigafactory Consortium of legal entities from non-Participating States may be subject to restrictions or exclusion where such participation is considered contrary to the Union’s strategic assets, interests, autonomy or security. In accordance with Regulation (EU) 2021/695, Regulation (EU) 2021/694 and Regulation (EU) 2021/1153, the call for expression of interest for selecting an AI Gigafactory Consortium may limit participation in the said Consortium to legal entities established only in Participating States or to legal entities established in specified associated countries of the Horizon Europe Framework Programme, the Digital Europe Programme and any subsequent relevant Union funding programme, or other third countries in addition to Participating States. The restrictions and exclusions referred to in this paragraph shall in principle not apply to legal entities established in third countries, which have signed an AI Gigafactory Cooperation Agreement or a similar agreement with the Union. The call for expression of interest for selecting an AI Gigafactory may specify that legal entities in other third countries may be eligible provided they comply with the requirements to be fulfilled by those legal entities to guarantee the protection of the security interests of the Union and the Member States and to ensure the protection of classified information. Those requirements shall be set out in the work programme.

3. The AI Gigafactory Consortium shall benefit from explicit provision of an appropriate supporting document proving the commitment of the Member State in which the AI Gigafactory hosting entity is established, or of the competent authorities of the Participating States of the AI Gigafactory Consortium.
4. The Union financial contribution referred to in Article 5 shall cover up to 17 % to the capital expenditure (CAPEX) investments of the overall computing infrastructure of the AI Gigafactory. Alternatively, the Union contribution may be brought in the form of a pre-agreed guaranteed purchase of access time to the AI Gigafactory equivalent to the computing capacity corresponding in value to 17 % of the capital expenditure of the overall computing infrastructure of the AI Gigafactory. One or more Participating States should at least match the Union contribution. The remaining investment as well as the operational expenditure (OPEX) of the AI Gigafactory shall be covered by the AI Gigafactory Consortium.
5. A selected AI Factory may substantially scale up to become an AI Gigafactory. In such case, the Union's financial support already provided for this AI Factory shall be counted as part of the Union's contribution towards the CAPEX of the AI Gigafactory computing infrastructure. The same provisions apply for the Participating States. The AI Factory hosting agreement referred to in Article 10 shall be modified accordingly, where appropriate. The additional investment into the AI Factory intended to become an AI Gigafactory as well as the OPEX of the AI Gigafactory shall be covered by the AI Gigafactory Consortium.
6. A Member State may provide its contributions for the specific AI Gigafactory identified by the Member State directly through national funding mechanisms or indirectly through other sources. ~~A Member State or~~ may, by mutual agreement with the Joint Undertaking, channel its respective contributions, including those referred to in paragraph 4 of this Article and any other additional contributions, in total or in part, through the Joint Undertaking, which shall then manage and disburse these funds to the identified AI Gigafactory on its behalf. The voluntary financial contribution may consist, in total or in part, of funds a Member State receives under Regulation (EU) 2021/241 and/or Regulation (EU) 2021/1060.

- 6a. A Member State may decide to allocate part of the financial contribution it receives under Regulation (EU) 2021/241 ('RRF allocations') to finance, in total or in part, its voluntary financial contribution to an AI Gigafactory in accordance with Art. 12b(6). Member States may also decide to use their remaining RRF allocations to finance their national contributions to AI factories, supercomputers or quantum computers or another AI or HPC investment, identified by the Member State in the Recovery and Resilience Plan. Member States may channel such contributions through the Joint Undertaking in accordance with Article 12b(6). **With the signature of a contribution agreement and the full and irrevocable transfer of the designated RRF funds to the EuroHPC at the latest by 31 August 2026, the Member State will be considered as having met the hard deadline set in Regulation (EU) 2021/241.**
- 6b. A Member State may decide to allocate part of the financial contribution it receives under Regulation (EU) 2021/241, **(EU) 2021/1060** or another funding programme to finance the acquisition and operation of new, advanced, state-of-the-art AI, HPC or quantum computing service and data infrastructures in its territory. Such Member State may, by mutual agreement with the Joint Undertaking, channel such investments through the Joint Undertaking, which shall then manage and disburse these funds to the identified investment on its behalf. **With the signature of a contribution agreement and the full and irrevocable transfer of the designated RRF funds to the EuroHPC at the latest by 31 August 2026, the Member State will be considered as having met the hard deadline set in Regulation (EU) 2021/241.**

Upon request by the Member State, such advanced state-of-the-art infrastructure facility financed in accordance with paragraph 1, shall be awarded the EuroHPC AI and Compute Infrastructure Seal by the Joint Undertaking, provided it reaches a performance level at least equivalent to **any of the established EuroHPC supercomputers, including AI Factories.**

The Joint Undertaking shall federate and network the infrastructures having been awarded the EuroHPC AI and Compute Infrastructure Seal with the EuroHPC AI, compute or quantum infrastructures, as appropriate.

The Member State may decide to provide to the Joint Undertaking some access time to the infrastructures funded in accordance with this paragraph. These contributions shall not be accounted for in the calculation of the contribution referred to in Article 5(1). Such access time made available by the Member State shall be managed by the Joint Undertaking as part of the EU's access time.

- 6c. The Member States may provide to the Joint Undertaking access time to one or more of their EuroHPC AI Factories or EuroHPC AI Gigafactories. This access time shall be primarily used to grant access to start-ups and SMEs for their research or innovation activities. These shall not be accounted for as in-kind contributions of the Member States.**
- 6d. The Union access time to one or more of their EuroHPC AI Factories or EuroHPC AI Gigafactories can be used to give free access to those European projects that develop open frontier AI models that are major drivers of innovation, which will be selected through an EU-wide open competition organised by the Joint Undertaking. These open models shall be made widely available to public authorities across Europe as well as to the European scientific and business communities. The Member States may complement this effort by providing to the Joint Undertaking additional access time for such EU-added-value projects. These shall not be accounted for as in-kind contributions of the Member States.**

7. The Joint Undertaking shall own the part of the AI Gigafactory computing infrastructure corresponding to the Union contribution to the CAPEX, specified in paragraphs 4 and 5, for a duration of at least five years, from the start of operations of the AI Gigafactory and further specified in the AI Gigafactory Hosting Agreement. ~~The duration of this ownership.~~ Alternatively, when the Union contribution is brought in the form ~~or of the~~ leased capacity referred to in paragraph 4, the duration shall be at least five years ~~from the start of operations of the AI Gigafactory~~ and further specified in the AI Gigafactory Hosting Agreement. In both cases, the ~~This~~ duration shall be extended in case of a substantial upgrade of the AI Gigafactory computing infrastructure. Without prejudice to the winding up of the Joint Undertaking, as referred to in Article 23(4) of the Statutes, ~~this ownership~~ shall be transferred in accordance with the AI Gigafactory Hosting Agreement or be extended for an agreed period under conditions specified in the AI Gigafactory Hosting Agreement. In the case of transfer of ownership to the AI Gigafactory Consortium, the residual value of the AI Gigafactory computing infrastructure shall be converted into equivalent access time ~~rights~~ for the Union. If there is no transfer of ownership to the AI Gigafactory Consortium according to the Hosting Agreement, but a decision for decommissioning, the relevant costs shall be borne by the AI Gigafactory Consortium.
8. The access time ~~rights~~ of the Union and the Participating States in an AI Gigafactory shall be directly proportional to their respective financial contributions to the CAPEX of the computing infrastructure of the AI Gigafactory, or to the pre-agreed guaranteed purchase of access time to the AI Gigafactory.
9. The Governing Board of the Joint Undertaking shall determine:
- (a) the conditions of the Union's access time to the AI Gigafactories,
 - (b) specific rules for access conditions to AI Gigafactories that concern the allocation of the access time of the Union for projects and activities considered as strategic for the Union.

10. When determining the conditions of the Union's access time pursuant to paragraph 9, the Governing Board shall ensure that access:
- (a) is granted to users residing, established or located in a Member State or in a third country associated to the Digital Europe Programme, to Horizon Europe or to the Connecting Europe Facility;
 - (b) is free of charge for the users from entities governed by public law. It shall also be free of charge for industrial users for applications related to research and innovation activities funded by Horizon Europe, the Digital Europe Programme, or the Connecting Europe Facility as well as those awarded a Seal of Excellence under Horizon Europe or the Digital Europe Programme and for private innovation activities of SMEs and scale-ups;
 - (c) include reserved computing resources specifically for EU-funded research and innovation projects, ensuring guaranteed availability and scheduling priority.
11. The Governing Board shall monitor the share of the Union's access time for the different types of users, defined in point (a) of paragraph 10. In cases where there is a significant imbalance in shares of access time between the different types of users versus demand, it shall take appropriate corrective action to address this imbalance.
12. Contributions from the Union and the Participating States shall be subject to conditions ensuring the protection of the Union's strategic interests. The specific conditions referred to in this paragraph shall be laid down in a dedicated AI Gigafactory Hosting Agreement between the Joint Undertaking and the AI Gigafactory Consortium. The AI Gigafactory Hosting Agreement shall be governed by Union law, supplemented, for any matter not covered by this Regulation or by other Union legal acts, by the law of the Member State where the hosting entity is established. The AI Gigafactory Hosting Agreement shall:
- (a) set out in detail the ownership and governance structure of the AI Gigafactory;

- (b) include provisions ensuring the effective and proportionate scrutiny and control of the AI Gigafactory by the Union for safeguarding the Union's strategic assets, interests, autonomy or security;
- (c) specify the financial contributions of the Union, of the Participating States and the public and/or private partners of the AI Gigafactory Consortium including the guaranteed access time to the AI Gigafactory referred to in paragraph 8, as appropriate, and its duration;
- (d) specify, if appropriate, any other Union's interests resulting from any Union investments regulated by specific investment agreements between the AI Gigafactory Consortium and InvestEU;
- (e) set out the eligibility conditions for the non-Union users of an AI Gigafactory; these shall comply with the same conditions as the eligibility conditions specified in paragraph 2;
- (f) set out the detailed conditions for access for the Union users and the accounting modalities of the access times to the AI Gigafactory services;
- (g) set out the quality of service offered to the Joint Undertaking users when operating the AI Gigafactory, as described in the service level agreement included in the AI Gigafactory Hosting Agreement;
- (h) set out the modalities of acquisition, operation and use of the AI Gigafactory data and computing infrastructure, including the user requirements from the public sector, where appropriate; where the AI Gigafactory Consortium includes one or more technology infrastructure suppliers, the AI Gigafactory Hosting Agreement shall include the provision of enhanced conflict-of-interest safeguards concerning these suppliers;
- (i) list the conditions for the transfer of ownership referred to in paragraph 7, where appropriate;

- (j) detail the extension of ownership or of the pre-agreed guaranteed purchased access time and the phasing out conditions for the AI Gigafactory, where appropriate;
 - (k) list the liability conditions for operating the AI Gigafactory, where appropriate;
 - (l) specify the obligation of the AI Gigafactory hosting entity to submit by 31 January of each year to the Governing Board an audit report and data on the use of the Union access time in the previous financial year;
 - (m) contain an arbitration clause, within the meaning of Article 272 TFEU, granting jurisdiction over all matters covered by the hosting agreement to the Court of Justice of the European Union.
13. The AI Gigafactory shall include a public governance body composed of representatives from the Commission and the Participating States providing public funding to the specific AI Gigafactory. **The composition and working modalities of such public governance body shall be specified within the AI Gigafactory Hosting Agreement.** Without prejudice to the AI Gigafactory Consortium's management and operational autonomy, and to ensure alignment with the public interest objectives underpinning the public funding, the following elements shall require explicit prior approval from the designated public governance body:
- (a) any proposed access agreements with entities from third countries that may raise concerns regarding the Union's strategic assets, interests, autonomy or security;
 - (b) substantial changes to the legal and financial structure or control impacting the Union's interests or those of the Participating States, such as a change in the ultimate ownership or control of the AI Gigafactory, any relocation of critical assets outside the Union or major financial restructuring decisions;
 - (c) significant change in the strategic purpose of the AI Gigafactories.

14. Following a call for expression of interest, the AI Gigafactory Consortium shall be selected by the Governing Board of the Joint Undertaking through a fair and transparent process, with the support of a panel of independent experts and of an accredited financial institution appointed by the Governing Board for the evaluation, based, inter alia, on the following criteria:

(a) Technical evaluation:

(i) Objectives and technical quality of the proposal

(ii) Quality of the workplan

(iii) Quality of the physical, IT and networking infrastructure

(iiia) Quality of service, including security and trustworthiness

(iv) Sustainability and energy efficiency

(v) Consortium experience and know-how in setting up similar large-scale facilities.

(b) Potential impact:

~~(i) Quality of service, including security and trustworthiness~~

(ii) Impact on the European AI ecosystem, including its competitiveness and talent pool

(iii) EU added value, including contribution to strategic autonomy and technological sovereignty.

(c) Financial feasibility:

- (i) Investment commitment of the Participating States
- (ii) Investment commitment of the AI Gigafactory Consortium
- (iii) Quality and financial viability of the proposed business model (including a due diligence to be carried out by the appointed accredited financial institution).

15. Where the Consortium does not include one or more technology infrastructure suppliers, the suppliers of the AI Gigafactory shall be selected by the AI Gigafactory Consortium based on fair and transparent tender specifications that shall take into account general system specifications, and in particular the user requirements from the public sector, provided by the Union in the call for expression of interest and further specified in the AI Gigafactory Hosting Agreement. The selection shall be based on fair, open and transparent criteria, and shall also ensure EU added value and address the security and resilience of the supply chain. The selected tenderers shall comply with the eligibility conditions specified in paragraph 2.
16. The Joint Undertaking may establish framework contracts for the provision of essential and high-demand components, such as advanced AI processors. The AI Gigafactory Consortia may use the framework contracts referred to in this paragraph for their procurement.

(6) Article 16 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. Without prejudice to Article 17(9), the use of EuroHPC supercomputers shall be open to users from the public and private sectors. Except for the industrial-grade EuroHPC supercomputers, their use shall be primarily for research and innovation purposes falling under public funding programmes, for public sector applications and for private innovation activities of SMEs, **start-ups and scale-ups** where appropriate.

Annex

The Annex is amended as follows:

(7) Article 3 of the Annex is amended as follows:

(a) paragraph 2 is amended as follows:

2. Any application of a Member State or a third country associated to Horizon Europe or the Digital Europe Programme for membership of the Joint Undertaking shall be addressed to the Governing Board. The candidate countries shall provide a written acceptance of these Statutes, and of any other provisions governing the functioning of the Joint Undertaking. The candidates shall also provide their motivation for requesting membership to the Joint Undertaking and indicate how their national supercomputing or quantum technology strategy is aligned with the Joint Undertaking's objectives. The Governing Board shall assess the application, taking into account the relevance and the potential added value of the candidate as regards the achievement of the mission and objectives of the Joint Undertaking and may decide to ask for clarifications regarding the candidature before endorsing the application.

(8) Article 4 of the Annex is amended as follows:

(a) paragraph 1 is amended as follows:

(c) Industrial and Scientific Advisory Board composed of the Research and Innovation Advisory Group, the Infrastructure Advisory Group and the Quantum Technologies Advisory Group.

(9) Article 5 of the Annex is amended as follows:

(a) the following paragraph 3 is added

(3) ~~For the quantum pillar of activities, the Participating States shall appoint a representative from their competent authorities in the field of quantum technologies.~~ **For the quantum pillar of activities, the Participating States may decide to use the same representative as for the other pillars of activity assisted by the appropriate representatives and experts from their relevant competent authorities in the field of quantum technologies, or may appoint an additional representative from their relevant competent authorities in the field of quantum technologies.**

(10) Article 6 of the Annex is amended as follows:

(a) the following paragraph 5a is added:

(5a) For the tasks referred to in Article 7(4a) of these Statutes, and for each AI Gigafactory, the voting rights of the Participating States shall be distributed in proportion to their committed financial contributions and to their in-kind contributions to that AI Gigafactory until the end of the AI Gigafactory hosting agreement; the in-kind contributions shall only be taken into account if they have been certified *ex-ante* by an independent expert or auditor.

For the purpose of this paragraph, decisions of the Governing Board shall be taken by a majority of at least 75 % of all votes, including the votes of the members who are absent.

(b) paragraph 6 is amended as follows:

(6) For the tasks referred to in Article 7(5), 7(5a), 7(6) and 7(7) of these Statutes, decisions of the Governing Board shall be taken in two stages.

(11) Article 7 of the Annex is amended as follows:

(a) the following paragraph 4a is added:

(4a) The Governing Board shall carry out the following tasks related to the AI Gigafactories referred to in Article 12b of this Regulation:

- (i) discuss and adopt the part of the multiannual strategic programme that is related to the establishment of AI Gigafactories referred to in Article 18(1) of these Statutes;
- (ii) discuss and adopt the part of the annual work programme that is related to the establishment of AI Gigafactories and the selection of AI Gigafactory Consortia and the corresponding expenditure estimates;
- (iii) approve the launch of calls for expression of interest, in accordance with the annual work programme;
- (iv) approve the selection of the AI Gigafactory Consortia which will establish and operate the AI Gigafactories;
- (v) determine the conditions of the Union's access time to the AI Gigafactories;
- (vi) approve any tenders related to the establishment of an AI Gigafactory selected for funding;
- (vii) approve framework contracts established by the EuroHPC Joint Undertaking for the provision of essential and high-demand components of AI Gigafactories.

(b) the following paragraph 5a is added:

(5a) For the Quantum Pillar of activities, the provisions of Article 7(5) of these Statutes apply, with the exception of activities related to the acquisition and operation of quantum computers where the provisions of Article 7(4) of these Statutes apply.

(12) Article 10 of the Annex is amended as follows:

(a) paragraph 1 is amended as follows:

1. The Industrial and Scientific Advisory Board shall be composed of a Research and Innovation Advisory Group, an Infrastructure Advisory Group and a Quantum Technologies Advisory Group.

(b) the following paragraph 7 is added:

(7) The Quantum Technologies Advisory Group shall consist of no more than twelve members, of which up to six shall be appointed by the Private Members taking into account their commitments to the Joint Undertaking and up to six shall be appointed by the Governing Board, in accordance with Article 7(3)(k) of these Statutes.

The Quantum Technologies Advisory Group may include up to six observers proposed by Participating States and appointed by the Governing Board.

(13) The following Article 12a is added:

Article 12a

Functioning of the Quantum Technologies Advisory Group

1. The Quantum Technologies Advisory Group shall meet at least twice a year.
2. The Quantum Technologies Advisory Group may appoint working groups where necessary under the overall coordination of one or more members.

3. The Quantum Technologies Advisory Group shall elect its chair.
 4. The Quantum Technologies Advisory Group shall adopt its rules of procedure, including the nomination of the constituent entities that shall represent the Advisory Group and the duration of their nomination.
- (14) The following Article 14a is added:

Article 14a

Tasks of the Quantum Technologies Advisory Group

1. The Quantum Technologies Advisory Group shall:
 - (a) draw up its contribution to the draft multiannual strategic programme in relation to quantum technologies activities and related subjects referred to in Article 18 of these Statutes and review it regularly in accordance with the evolution of scientific, industrial, and policy demand;
 - (b) organise public consultations open to all public and private stakeholders having an interest in the field of quantum technologies to inform them about, and collect feedback on, the draft multiannual strategic programme and the related draft activities of the quantum technologies **part of the** work programme for a given year.
2. The contribution to the draft multiannual strategic programme referred to in paragraph 1 shall address:
 - (a) the strategic research, innovation, deployment, and infrastructure priorities for the development and uptake of quantum technologies and their integration into the European digital ecosystem, to support the Union's resilience, strategic autonomy and technological sovereignty;
 - (b) potential international cooperation activities in quantum technologies that add value and are of mutual interest while ensuring alignment with Union values and security interests

- (c) training, education, and workforce development priorities for addressing key competences and the skills gap in quantum technologies, including awareness of security-sensitive applications
- (d) the acquisition, deployment, and operation of quantum infrastructures, including the interconnection and federation with High Performance Computing infrastructures and other digital infrastructures such as quantum communications and quantum sensing;
- (e) measures for capability building, interoperability, standardisation, security in the field of quantum technologies with specific consideration of dual-use risks and protection of the strategic assets, interests, autonomy or security of the Union.

(15) Article 16 of the Annex is amended as follows:

Budgetary commitments of the Joint Undertaking may be divided into annual instalments. From January 2025, at least 20 % of the cumulative budget of the residual years shall not be covered by annual instalments.

Article 2

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