



Brussels, 9.4.2025
COM(2025) 159 final

Recommendation for a

COUNCIL DECISION

approving the conclusion, by the European Commission, of the Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union Programmes

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The EU and Switzerland are closely intertwined from an economic, historical, cultural, social and political perspective. The EU is Switzerland's largest trading partner, while Switzerland is the EU's fourth largest trading partner. Over 1.5 million EU citizens live in Switzerland and just under 450,000 Swiss nationals live in the EU. Every day a few hundred thousand frontier workers cross the EU-Swiss border in both directions.

The EU and Switzerland are tied together by multiple bilateral agreements. Through the agreements on the free movement of persons, land transport, air transport, trade in agricultural products and mutual recognition in relation to conformity assessment, Switzerland takes part in the EU's internal market¹. Through the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, Switzerland is also a Schengen associated country. During the COVID-19 pandemic cooperation between the EU and Switzerland on cross-border health threats increased.

Switzerland has also traditionally been a strong partner in research and innovation. The country has collaborated with the European Union on numerous Union funding programmes focused notably on research, innovation, and education. Since 1987, Swiss universities and the private sector actively participated in the EU's research and innovation framework programmes. That same year, the first bilateral agreement on scientific and technological cooperation entered into force. Switzerland remains deeply engaged in various European initiatives, including the European Organization for Nuclear Research (CERN), the European Space Agency, the European Cooperation in Science and Technology (COST), and Eureka. It was also associated with the Euratom Research and Training Programme in the period 2014-2020 and participated in activities related to the European Joint Undertaking for ITER and the Development of Fusion for Energy between 2014-2020 based on the Association Agreement to Horizon 2020 and Euratom². Furthermore, Switzerland was formerly a member of the EU's Erasmus programme³.

While the EU-Switzerland relationship is close, it has also been hampered by several longstanding structural problems. To solve those problems, between 2014 and 2021, the EU and Switzerland conducted negotiations on an Institutional Framework Agreement. The Institutional Framework Agreement would have also provided the governance framework for additional agreements in fields related to the internal market in which Switzerland participates, including agreements for which negotiations had been authorised by the Council,

¹ Agreement on Air Transport, Agreement on the Carriage of Goods and Passengers by Rail and Road, Agreement on the Free Movement of Persons, Agreement on Mutual Recognition in Relation to Conformity Assessment, Agreement on Trade in Agricultural Products, all signed on 21 June 1999 (OJ L 114, 30.4.2002, p. 1).

² Agreement for scientific and technological cooperation between the European Union and European Atomic Energy Community and the Swiss Confederation associating the Swiss Confederation to Horizon 2020 — the Framework Programme for Research and Innovation and the Research and Training Programme of the European Atomic Energy Community complementing Horizon 2020, and regulating the Swiss Confederation's participation in the ITER activities carried out by Fusion for Energy (OJ L 370, 30.12.2014, p. 3–18).

³ Agreement between the European Economic Community and the Swiss Confederation establishing cooperation in the field of education and training within the framework of the Erasmus programme (OJ L 332, 03.12.1991 p. 52-60).

notably on food safety (2003 and 2008) and electricity (2006). In addition, it would have provided the governance framework for the Agreement on health, for which negotiations had been authorised by the Council in 2008.

Negotiators reached an agreement on a draft Institutional Framework Agreement text at technical level in November 2018. In reaction to the Federal Council's refusal to endorse the draft text, negotiations on the other agreements came to a halt as both the Council, in its conclusions of 19 February 2019, and the European Parliament, in its recommendation of 26 March 2019, made the conclusion of new internal market access agreements or improved conditions under existing agreements conditional on the conclusion of the Institutional Framework Agreement. On 26 May 2021, despite further attempts to find solutions, the Swiss Federal Council decided to unilaterally terminate the negotiations on the Institutional Framework Agreement. Switzerland's unilateral decision brought the bilateral cooperation in the areas of research, innovation and education to a temporary halt.

Following the breakdown of the negotiations on the Institutional Framework Agreement, the European Commission and Switzerland initiated exploratory talks in March 2022 to discuss the future of their relations. These talks led to a Common Understanding that recorded both sides' political understanding on the way forward for a future negotiation and identified the components and parameters of a broad negotiating package, as well as landing zones and solutions on key institutional and sectoral points. The exploratory process confirmed both sides' strong interest in revitalising their cooperation in research, innovation, and education. In this context, the Common Understanding affirmed the intention to establish, as part of the broader package, a legal framework enabling Switzerland's participation in the current MFF 2021-2027 and later generations of Union programmes, including the Research and Innovation framework programmes, Digital Europe, and Erasmus+. Furthermore, the Common Understanding confirmed both sides' intention to re-engage in negotiations on the implementation of the existing EU-Switzerland GNSS agreement (Galileo and EGNOS) and to initiate discussions on Switzerland's participation in the Copernicus component of the EU Space programme.

The Common Understanding was endorsed by the Swiss Federal Council and by the European Commission in November 2023. Both sides committed to use it as a basis for seeking their negotiating mandates and recorded their ambition of concluding the negotiations in the course of 2024.

Consequently, on 20 December 2023, the Commission adopted a recommendation for a Council decision to authorise negotiations on the broad package of measures identified and defined during the exploratory talks. The overall objective of these negotiations was to modernise and strengthen bilateral relations between the EU and Switzerland, ensure fair competition between EU and Swiss companies operating within the internal market, and safeguard the rights of EU citizens in Switzerland, including preventing discrimination between citizens of different Member States. This would allow citizens, businesses, and researchers on both sides to fully benefit from the geographical proximity, shared values, and economic links between the EU and Switzerland. In parallel, the Federal Council undertook the corresponding preparatory work on the Swiss side. Following the completion of the relevant processes in Switzerland, the Council of the European Union adopted a decision on 12 March 2024, authorising the Commission to launch negotiations on the broad package of measures, along with detailed negotiating directives.

The negotiating directives confirmed that, as part of the package, the Commission should negotiate a standalone agreement outlining the general terms and conditions for Switzerland's participation in Union programmes. This agreement should ensure a fair balance between Switzerland's contributions and the benefits derived from participation in these programmes, as well as establish the conditions of participation, including the calculation of financial contributions to each of those programmes and their administrative costs. The protocols for Switzerland's association to specific Union programmes should establish the list of programmes in which Switzerland participates for each generation of programmes. According to the negotiating directives, the Agreement should also allow for the possibility of Switzerland's future association with other Union programmes through a protocol or protocols, which would be adopted via a simplified procedure by a Joint Committee set up under the Agreement.

The negotiations on the broad package were launched on 18 March 2024 by the President of the European Commission, Ursula von der Leyen, and the then President of the Swiss Confederation, Viola Amherd. The Commission conducted the negotiations in consultation with the Council, including the General Affairs Council, and EFTA Working Party appointed by the Council as the special committee for the purpose of negotiations with Switzerland. Due regard has been given to the resolution of the European Parliament of 4 October 2023 and the Commission kept the European Parliament duly informed on the negotiation process in accordance with Article 218(10) of the Treaty on the Functioning of the European Union (TFEU).

After nine months of intense negotiations, Presidents von der Leyen and Amherd announced the successful completion of discussions on all elements of the broad package on 20 December 2024. The broad package includes the update of the five agreements which already give Switzerland access to the EU internal market⁴; a new agreement on food safety that will establish a Common Food Safety Area covering all dimensions of the food chain; a new agreement on health that will allow Switzerland to take part in EU mechanisms and bodies addressing serious cross-border threats to health, notably the European Centre for Disease Prevention and Control and the Early Warning and Response System; a new agreement on electricity that will allow the participation of Switzerland in the EU internal electricity market; a new agreement on Switzerland's permanent and fair financial contribution to economic and social cohesion within the Union, reflecting the level of partnership and cooperation between the parties; and a new agreement that will allow Switzerland to participate in several Union programmes open to association of third countries, namely Horizon Europe, Euratom Research and Training, ITER/F4E (Fusion for Energy), Digital Europe, Erasmus+, as well as EU4Health, a programme that aims to complement the cooperation established in an EU-Switzerland health agreement that the two partners negotiated as part of the same broad package. In addition to the elements listed above, the broad package also includes a separate Protocol on parliamentary cooperation.

While the Agreement regarding Switzerland's participation in Union programmes (Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union Programmes ('the Agreement')) forms an integral part of the broader package negotiated between the two partners in 2024, the Commission has decided to expedite the

⁴ Agreement on Air Transport, Agreement on the Carriage of Goods and Passengers by Rail and Road, Agreement on the Free Movement of Persons, Agreement on Mutual Recognition in Relation to Conformity Assessment, Agreement on Trade in Agricultural Products, all signed on 21 June 1999 (OJ L 114, 30.4.2002, p. 1).

recommendation for the approval of the conclusion of the Agreement, with the aim of starting its provisional application – in accordance with Article 18 if it is signed before 15 November 2025 – with effect from 1 January 2025. At the same time, the signature and provisional application of the Agreement, prior to its conclusion, does not affect the broad package approach established by the Common Understanding and confirmed by the Council negotiating directives, as the Agreement concerning Switzerland's participation in Union programmes includes a sunset clause, which provides that the provisional application of the Agreement will cease if Switzerland does not complete its procedures necessary for the entry into force of the package by the end of 2028. Moreover, the conclusion of the Agreement is foreseen as part of the wider package, which encompasses other key agreements that were the subject of the negotiations conducted in 2024.

Given that the Agreement covers the participation of Switzerland in Union Programmes under the Treaty on the Functioning of the European Union, this recommendation is accompanied by a proposal for the signature and provisional application of the Agreement as regards matters falling under that Treaty.

- **Consistency with existing policy provisions in the policy area**

In terms of content, the Agreement on Switzerland's participation in Union programmes is similar to other agreements that the European Union has concluded over the past years with partners such as the United Kingdom, New Zealand and Canada and is therefore consistent with the Union's policy in the field.

- **Consistency with other Union policies**

The Agreement which is a part of a broad package of the EU-Switzerland agreements fully respects the Treaties and preserves the integrity and the autonomy of the Union legal order. It promotes the values, objectives and interests of the Union, and ensures consistency, effectiveness and continuity of its policies and actions.

The participation of Switzerland in Union programmes will fully respect the basic acts defining the programmes and the existing Union regulations related to financial management such as the Financial Regulation.

2. LEGAL BASIS

Article 101 of the Euratom Treaty provides a specific legal basis for the negotiation and conclusion of international agreements with third countries entailing obligations for the European Atomic Energy Community. Hence the specific legal basis to conclude the Agreement, as regards matters falling under the competence of the European Atomic Energy Community, is Article 101, second paragraph, of the Euratom Treaty.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

N/A

- **Collection and use of expertise**

N/A

- **Impact assessment**

N/A

- **Regulatory fitness and simplification**

N/A

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

The Legislative Financial Statement presented with this Recommendation sets out the indicative budgetary implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

N/A

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

The Agreement sets out the legal framework for the participation of Switzerland in Union programmes, ensuring a fair balance as regards the contributions and benefits. It also ensures that no decision-making power is conferred on Switzerland in respect of the programmes in which Switzerland participates.

The Agreement lays down the conditions for the calculation of financial contributions to individual programmes and their administrative costs, and guarantees the rights of the Union to ensure sound financial management and to protect the Union's financial interests.

The Agreement also lays down other conditions for the participation in Union programmes, such as provisions regarding the mobility of persons that participate in the implementation of those Union programmes. The Agreement includes the conditions for the suspension of the participation of Switzerland in Union programmes and the termination of the Agreement. It also includes provisions ensuring that those cases will not affect the legal commitments entered into with Swiss entities.

The Agreement provides for its provisional application with retroactive effect from 1 January 2025, if signed before 15 November 2025, with the objective of starting the cooperation in the fields covered by the Agreement on the date specified for each programme.

Protocol I covers Switzerland's participation in the Euratom Research and Training programme, complementing the Horizon Europe programme from 1 January 2025. Protocol I also covers the participation in Horizon Europe, the Digital Europe programme and Erasmus+.

The Euratom Research & Training programme (2021-2025)⁵ is a complementary funding programme to Horizon Europe which covers nuclear research and innovation. It uses the same instruments and rules for participation as Horizon Europe. The Protocol also includes a provision for the extension of its application to the successor of the Euratom Programme for the period 2026-2027 under the same terms and conditions.

In addition to the specific terms and conditions of participation in both research programmes, the Protocol includes clauses on reciprocity and open science. It furthermore provides for an adjustment mechanism and automatic correction mechanism to be applied to Horizon Europe. Concerning Switzerland's participation in the Euratom Programme, the Protocol holds that no adjustment mechanism and automatic correction mechanism apply, while the contribution key to be applied in years 2025, 2026 and 2027 for the calculation of the operational contribution for the participation in the Euratom Programme will be 95,4% of the contribution key defined in the Agreement.

Protocol II provides for the participation of Switzerland in the European Joint Undertaking for ITER and the Development of Fusion for Energy. Switzerland will participate, as associated third country to the Euratom Research and Training programme, as a member of F4E as from 1 January 2026 and for the duration of the establishment of F4E. Swiss membership in F4E makes Swiss entities eligible for competing in F4E and ITER public procurement procedures and entails participation in the F4E governance.

The text of the Agreement is submitted to the Council together with this recommendation.

⁵ Council Regulation (Euratom) 2021/765 of 10 May 2021 establishing the Research and Training Programme of the European Atomic Energy Community for the period 2021-2025 complementing Horizon Europe – the Framework Programme for Research and Innovation and repealing Regulation (Euratom) 2018/1563 (OJ L 167I, 12.5.2021, p. 81–100).

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) On 12 March 2024, the Council authorised the Commission to open negotiations with the Swiss Confederation for a broad package of measures related to bilateral relations with the Swiss Confederation, comprising of institutional and State aid provisions in, and, where necessary, specific adaptations to agreements between the European Union and the Swiss Confederation in fields related to the internal market, of an agreement on Switzerland's participation in Union programmes and an agreement that forms the basis for Switzerland's permanent contribution towards reducing economic and social disparities between regions¹. The Council had also authorised the Commission to open negotiations with the Swiss Confederation on new agreements on electricity, health and food safety, on the participation of Switzerland in the European Union Agencies for the Space Programme and for Railways, and on the amendment of the Agreement between the European Community and the Swiss Confederation on air transport to allow for cabotage.
- (2) The Commission has negotiated, on behalf of the Union, a broad package of agreements which includes an Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union Programmes ('the Agreement'), as well as Protocols on institutional, State aid and amending provisions for agreements between the European Community and the Swiss Confederation in fields related to the internal market in which Switzerland participates, an Agreement between the European Union and the Swiss Confederation on Switzerland's regular financial contribution towards reducing economic and social disparities in the European Union, an Agreement between the European Union and the Swiss Confederation on Health, an Agreement between the European Union and the Swiss Confederation on electricity, a Protocol to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products establishing a Common Food Safety Area, and an Agreement between the European Union and the

¹ Council Decision (EU, Euratom) 2024/995 of 12 March 2024 authorising the opening of negotiations with the Swiss Confederation on institutional provisions in agreements between the European Union and the Swiss Confederation related to the internal market, on an agreement on the Swiss Confederation's participation in Union programmes and on an agreement that forms the basis for the Swiss Confederation's permanent contribution to the Union's cohesion (OJ L, 2024/995, 26.3.2024).

Swiss Confederation on the terms and conditions for the participation of the Swiss Confederation in the European Union Agency for the Space Programme.

- (3) The Agreement covers matters falling under competences of the European Atomic Energy Community (the 'Community'), namely the association to the Research and Training programme of Euratom and to the European Joint Undertaking for ITER. The Agreement should therefore be concluded on behalf of the Community as regards matters falling under the Treaty establishing the European Atomic Energy Community (the 'Euratom Treaty').
- (4) The conclusion by the Commission, acting on behalf of the European Atomic Energy Community, as regards matters falling under the Euratom Treaty, of the Agreement should be approved. The Agreement should be concluded at the same time as other elements of the package and as an integral part of that package.
- (5) With the aim to increase the breadth of their cooperation, the Agreement provides that the Parties shall apply it provisionally, in accordance with their respective internal procedures and legislation, as from 1 January 2025, unless the date of signature is after 15 November 2025, in which case the Parties shall apply the Agreement provisionally as from 1 January 2026.
- (6) The Agreement should therefore be applied provisionally by the Community as regards matters falling under the Euratom Treaty.
- (7) Provisional application should be limited in time as set out in the Agreement and cease at the latest on 31 December 2028 if Switzerland, by that date, has not completed its internal procedures necessary for the entry into force of several agreements included in the broad package.
- (8) The signing, provisional application and conclusion of the Agreement as regards matters falling under the Treaty on the Functioning of the European Union is subject to a separate procedure, under that Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The conclusion by the Commission, on behalf of the European Atomic Energy Community, of the Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union Programmes, including its provisions on provisional application, is hereby approved as regards matters falling under the Euratom Treaty.²

Article 2

Prior to its conclusion, the Agreement, as regards matters falling under the Euratom Treaty, shall be signed and shall, subject to reciprocity, be applied provisionally in accordance with Article 18 of the Agreement.³

² The text of the Agreement is published in OJ, L [...].

³ The date from which the Agreement will be provisionally applied will be published in the Official Journal of the European Union.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT
‘REVENUE’ - FOR PROPOSALS HAVING BUDGETARY IMPACT ON THE
REVENUE SIDE OF THE BUDGET

1. NAME OF THE PROPOSAL:

Recommendation for a Council decision approving the conclusion, by the European Commission, of the Agreement between the European Union and the European Atomic Energy Community of the one part, and Switzerland of the other part, on the participation of the Swiss Confederation in Union Programmes- Participation in activities of the European Joint Undertaking for ITER and the Development of Fusion Energy, and to the EURATOM - Research and Training Programme of the European Atomic Energy Community.

2. BUDGET LINES:

Revenue line (Chapter/Article/Item): 6 0 1 2 — International Thermonuclear Experimental Reactor (ITER) - Assigned revenue

Amount budgeted for the year concerned:

(only in case of assigned revenues):

The revenues will be assigned to the following expenditure line (Chapter/Article/Item):

Whole article 01 04 01

Whole Article 01 01 03 (01 01 03 01, 01 01 03 02, 01 01 03 03)

Budget line 20 XX Administrative expenditure of the European Commission

Revenue line (Chapter/Article/Item): 6 0 1 0 — **Euratom** — Assigned revenue

Amount budgeted for the year concerned:

(only in case of assigned revenues):

The revenues will be assigned to the following expenditure line (Chapter/Article/Item):

Whole article 01 01 02 (01 01 02 01, 01 01 02 02, 01 01 02 03, 01 01 02 11, 01 01 02 12, 01 01 02 13)

Article 01 03 01

Article 01 03 02

Article 01 03 03

Budget line 20 XX Administrative expenditure of the European Commission

3. FINANCIAL IMPACT¹

☐ Proposal has no financial implications

¹ All figures for years 2026 and 2027 which are quoted in this section are indicative, and correspond to the latest estimates available.

- ☐ Proposal has no financial impact on expenditure but has a financial impact on revenue
- ☒ Proposal has a financial impact on assigned revenue

The effect is as follows:

(EUR million to three decimal place)

Revenue line	Impact on revenue	XX months period starting dd/mm/yyyy (if applicable)	2025
6 0 1 2	NA		NA

(EUR million to three decimal place)

Situation following action			
Revenue line	2025	2026	2027
6 0 1 2	NA	40,371	31,707

(EUR million to three decimal place)

Expenditure line	2025	2026	2027
Articles 01 04 01 01 01 03	NA	39,195	30,488
20 XX	NA	1,176	1,219

(EUR million to three decimal place)

Revenue line	Impact on revenue	XX months period starting dd/mm/yyyy (if applicable)	2025
6 0 1 0	42.046	36 months starting 01/01/2025	13.566

(EUR million to three decimal place)

Situation following action			
Revenue line	2025	2026	2027
6 0 1 0	13.566	13.915	14.564

(EUR million to three decimal place)

Expenditure line	2025	2026	2027
Articles 01 01 02; 01 03 01; 01 03 02; 01 03 03;	13.236	13.510	14.004
20 XX	0.331	0.405	0.560

4. ANTI-FRAUD MEASURES

Article 325 of the Treaty on the functioning of the European Union (TFEU) requires the Commission to counter fraud and any illegal activities affecting the financial interests of the Union. Preventing and detecting fraud is therefore a general obligation for all Commission Services in the framework of their daily activities involving the use of resources.

Any fraud or irregularities involving EU funds has a particularly negative impact on the reputation of the Commission and the implementation of EU policies. The current Commission Anti-Fraud Strategy (COM(2019)196) was adopted on 29 April 2019, to replace the 2011 Strategy. It is a policy document setting out the Commission's priorities in the fight against fraud in view of the 2021-2027 multiannual financial framework. The 2019 CAFS' main objectives are to 1) "further improve the understanding of fraud patterns, fraudsters' profiles and systemic vulnerabilities relating to fraud affecting the EU budget" (data collection and analysis), and 2) "optimise coordination, cooperation and workflows for the fight against fraud, in particular among Commission services and executive agencies" (coordination, cooperation and processes). The strategy is accompanied by an Action Plan which was revised in July 2023 and which, like its predecessor, seeks to strengthen all parts of the anti-fraud cycle: prevention, detection, investigation and correction.

The guiding principles and target standards of the 2019 CAFS are:

- zero tolerance for fraud;
- fight against fraud as an integral part of internal control;
- cost-effectiveness of controls;
- professional integrity and competence of EU staff;
- transparency on how EU funds are used;
- fraud prevention, notably fraud-proofing of spending programmes;
- effective investigation capacity and timely exchange of information;
- swift correction (including recovery of defrauded funds and judicial/administrative sanctions);
- good cooperation between internal and external players, in particular between the EU and national authorities responsible, and among the departments of all EU institutions and bodies concerned;
- effective internal and external communication on the fight against fraud.

Articles 11 to 14 of the Agreement contain detailed provisions concerning the Sound Financial Management, which also includes anti-fraud measures. These measures are to be applicable horizontally to ensure protection of EU financial interests across Union Programmes or activities covered in the future Protocols potentially to be adopted by the Joint Committee under the Agreement to associate the Swiss Confederation to a number of Union programmes or activities. They are applicable also to Protocols, as Protocols and Annexes constitute an integral part thereof.

Notably, Articles 11 and 12 of the Agreement provide for the necessary details, processes as well as allow for flawless execution of tasks by the bodies in order to safeguard the financial interests of the EU (the European Commission or by other persons mandated by the European Commission, which includes the European Anti-Fraud Office (OLAF), the European Court of Auditors and the European Public Prosecutor's Office (EPPO)). Throughout the implementation of the Programmes or activities covered by the Protocol(s) to the Agreement, the principle remains intact: the financial interests of the EU are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, to the imposition of the administrative penalties.

In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and ensure that any third parties involved in the implementation of Union funds grant equivalent rights. As expressly provided in Article 11(4) of the Agreement, reviews and audits may be carried out also after the suspension of application of a Protocol, cessation of application or termination of the Agreement.

The Agreement ensures the possibility for OLAF may carry out administrative investigations, including on-the-spot checks and inspections, on the territory of the Swiss Confederation of a Swiss entity that is party to a relevant funding agreement or a Swiss entity third party implementing the funding agreement under a contract, in accordance with, and to the extent provided in, the relevant funding agreement and other applicable contract. When exercising their duties in the territory of the Swiss Confederation, the European Commission and OLAF shall act in a manner compatible with Swiss law.

Reviews and audits may be carried out by the Union officials, in particular officials of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission. When exercising their duties in the territory of the Swiss Confederation, the European Commission or other persons mandated by the European Commission shall act in a manner compatible with Swiss law.

The Swiss authorities shall cooperate, in accordance with applicable international cooperation instruments with the authorities of the Union or of the Member States competent for the investigation and prosecution of criminal offences affecting the financial interests of the Union, including bringing to judgment alleged perpetrators and accomplices of the said criminal offences. Requests submitted pursuant to applicable international cooperation instruments may include as applicable requests made in relation to investigations or prosecutions of the EPPO. This allows for a cooperation with the EPPO as provided for in Directive (EU) 2017/1371 of the

European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law.

Furthermore the Agreement provides for effective mechanism to ensure enforcement of Commission decisions on the territory of the Swiss Confederation.

5. OTHER REMARKS

The method for calculation of the financial contribution of the Swiss Confederation across Union programmes is defined in Article 7 of the Agreement on financial conditions and in Annex I on financial implementation provisions of the Agreement. By derogation from Article 7(7) of the Agreement, the contribution key to be applied exceptionally in years 2025, 2026 and 2027 for the calculation of the operational contribution for the participation in the Euratom Programme shall be 95,4% of the contribution key defined in Article 7(6) of the Agreement (Article 10(3) of Protocol I and Article 5(2) of Protocol II).