

EXPLANATORY MEMORANDUM ON A UK/EU WITHDRAWAL AGREEMENT OR TRADE AND COOPERATION AGREEMENT GOVERNANCE DOCUMENT

COM(2023)527

Proposal for a council decision on the position to be taken on behalf of the European Union in the Specialised Committee on Participation in Union Programmes

Submitted by HM Treasury, 27/09/2023

SUBJECT MATTER

1. On 7 September the Government announced that the UK would associate to the Horizon Europe programme, and the Copernicus component of the EU Space programme under a bespoke deal.
2. Horizon Europe is the world's biggest civil research and innovation programme. Association to Horizon Europe will allow the EU and UK to deepen their relationship in research and innovation, bringing together their research communities. Copernicus is the Earth observation (EO) component of the European Union's Space Programme and the largest space data provider in the world. The UK's participation in Copernicus will provide a range of opportunities for our EO sector including access to the EU's Copernicus EO system and the opportunity to bid for procurement contracts. In addition, the UK will have access to EU Space Surveillance and Tracking services (SST).
3. This Explanatory Memorandum concerns the proposed Council Decision to agree the EU's position at the Specialised Committee on Participation in Union Programmes (SCPUP) under the Trade and Cooperation Agreement (TCA) in relation to adopting Decision No 1/2023. This latter Decision will implement the agreement announced on 7 September by adopting Protocols I and II and amending Annex 47 of Part V of the TCA. Today the Government has also published the draft SCPUP Decision on GOV.UK.
4. Protocols I and II were originally published in draft when the TCA was agreed in December 2020. Protocol I provides for UK participation in Horizon Europe and Copernicus and Protocol II provides for UK access to SST services. Annex 47 contains provisions relating to the implementation of the financial conditions for UK association to EU programmes. Protocols I and II and the amended Annex 47 will all be integral parts of the TCA, in accordance with Article 778 of the TCA, once the SCPUP Decision is adopted.
5. The UK and EU have negotiated substantial changes to the original draft version of Protocol I. Article 1(1) now provides that the UK will associate to Horizon Europe and Copernicus and pay contributions from 1 January 2024 (rather than from 1 January 2021 as anticipated in the original draft), ensuring that the UK will not make financial contributions during the period the UK was not associated.

6. UK researchers and businesses will be eligible to access Horizon Europe funds for the 2024 Work Programme and onwards. Applications for some 2024 Work Programme grants are already open. Protocol I now also clarifies under Articles 1(2) and 2(2) that UK researchers and businesses will not be eligible for EU funding for awards which implement EU budget commitments from 2021, 2022 or 2023. This is because the UK will not make financial contributions to the 2021, 2022 or 2023 budgets. As separately confirmed by the EU and UK in the Joint Statement of 7 September, for Horizon Europe the EU will continue to administer transitional measures for the 2023 Work Programme. Successful UK applicants will continue to receive funding for projects under the 2021, 2022, and 2023 Work Programmes from the Government's existing Horizon Europe Financial Guarantee scheme for grant calls. This ensures that UK researchers and businesses, and their international partners, can be certain that successful UK applicants for Horizon Europe grants will be funded either through UK association or through the UK Financial Guarantee, for the rest of the programme.
7. Article 5(4) provides for a new automatic clawback mechanism for the Horizon Europe programme that protects the UK from paying significantly more into the programme than UK researchers and businesses receive as participation recovers. If in any given year the UK's operational contribution (excluding administrative contributions) to the Horizon Europe budget is greater than the value of the grants received by UK researchers and businesses, and the difference is at least 16% of that contribution, any amount above this threshold is deducted from future UK contributions to the Horizon Europe budget. This deduction is implemented two years after the year in which the threshold was exceeded, which is the earliest point the necessary data will be available to calculate it. Where these timings mean that deductions become due after the UK's last contribution to the Horizon Europe programme, they will instead be made from its successor programme, should the UK choose to associate to it.
8. Protocol I no longer provides for UK association to Euratom Research and Training programme and Fusion for Energy activities (the Euratom programmes). This is because, in line with the preferences of the UK fusion sector, the UK has decided to pursue a domestic fusion energy strategy instead of associating to the EU's Euratom programmes. The Government has announced up to £650 million to 2027 in new spending to support cutting edge domestic fusion programmes.
9. Further minor technical amendments have been made throughout Protocol I, including updating references to relevant EU legislation and removing references to the Euratom programme and related matters.
10. Minor technical amendments have also been made to Protocol II, to update references to the relevant EU legislation, and to Annex 47, to remove provisions regarding the timing of payments for contributions to 2021 and 2022 budget commitments as these are no longer relevant.

11. As outlined in the Joint Statement of 7 September, the European Commission and UK Government will take forward joint outreach and engagement activities designed to encourage the participation of UK entities within both programmes.

SCRUTINY HISTORY

12. The original versions of draft Protocols I and II were laid before Parliament alongside the rest of the TCA in April 2021. The revised draft Protocols I and II were published on GOV.UK today.
13. DSIT Secretary of State Michelle Donelan wrote to the following Select Committees on 6 September 2023 to announce this agreement:
 - Science, Innovation and Technology Committee
 - European Scrutiny Committee
 - Science and Technology Committee
 - European Affairs Committee
 - Treasury Committee
 - Public Accounts Committee
 - Energy Security and Net Zero Committee
14. On 7 September 2023 DSIT Secretary of State Michelle Donelan also made an oral statement on the agreement to the House of Commons, which was repeated in the House of Lords by Viscount Camrose.

MINISTERIAL RESPONSIBILITY

15. The Chancellor of the Exchequer has overall responsibility for UK participation in EU programmes. Ministerial responsibility for payments for participation in Horizon Europe and Copernicus sit with the DSIT. The Foreign Secretary has overall responsibility for the TCA and the UK-EU relationship.

INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)

16. The DGs were, and continue to be, regularly updated on the progress of UK association to these programmes. The DGs have been invited to meetings of the SCPUP as observers.

LEGAL AND PROCEDURAL ISSUES

Legal Base:

17. The European Union's legal basis for this decision is Article 218(9) of the Treaty on the Functioning of the European Union (TFEU).
18. The TCA provides in Article 714(11) that the SCPUP may amend Annex 47. It also provides in Articles 710(2) and 731(3) that the SCPUP may adopt and amend Protocol I and II, respectively.

Voting Procedure:

19. The Council shall act by a qualified majority throughout the procedure.

Timetable for adoption and implementation:

20. A date for the adoption of the Council Decision has not yet been set. The EU and UK announced in the Joint Statement of 7 September that they will work together with the aim of promptly adopting the necessary legal instruments.

POLICY IMPLICATIONS

21. The proposed Council Decision enables the implementation by the SCPUP of a bespoke agreement the EU and UK have negotiated on association to Horizon Europe and Copernicus. This deal allows UK researchers and businesses to participate in the world's largest research cooperation programme whilst securing fair financial terms. This will open up scientific cooperation with the EU and other associated partners including Norway, New Zealand and Israel who are also part of the Horizon Europe programme. The UK EO sector will be able to bid for procurement contracts, and access unique data provided by association to Copernicus. By agreeing with the EU not to associate to Euratom, the UK will pursue its own domestic fusion agenda – in line with the UK fusion sector's preferences. This will be supported by up to £650m of new funding to 2027.

CONSULTATION

22. DSIT and DESNZ have conducted regular stakeholder engagement and consultation throughout the policy development and negotiations of UK association to these programmes to ensure that the UK's strategy reflected the priorities of the UK's scientific community.

23. No impact assessment has been necessary.

FINANCIAL IMPLICATIONS

24. Under this agreement the UK will participate in and contribute to Horizon Europe and Copernicus from 1 January 2024 until the programmes end in 2027.

25. UK financial contributions to these programmes are provided for in Article 714 of the TCA. The UK will pay an operational contribution (which includes administrative expenditure) and a participation fee. The operational contribution is calculated based on the total EU budget for these programmes multiplied by the ratio of the GDP of the UK to the GDP of the EU. The participation fee is an additional fee set at 2% of the UK's operational contribution in 2024, 2.5% in 2025, 3% in 2026 and 4% in 2027.

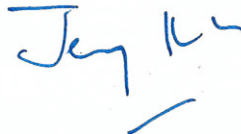
26. The calculation of the UK's operational contribution may be subsequently revised upwards or downwards to account for any retrospective increase or decrease in the programmes' budget commitments in a given year. The UK's contributions can also be reduced to account for any award procedures which UK entities are wholly

excluded from or are determined by the SCPUP to be quasi-excluded from, based on historic performance data. The exclusion provisions in Article 714 are separate from the additional protections provided by the new automatic clawback mechanism in Protocol I, described in more detail at paragraph 7. Any reduction as a result of exclusions or quasi-exclusions is applied before the 16% threshold is calculated for the purposes of the automatic clawback mechanism, which can reduce UK contributions further.

27. UK contributions may also be revised upwards should the UK meet the overperformance thresholds set out in Article 716. If in two consecutive years the value of the grants received by UK researchers and businesses is greater than the UK's operational contribution (excluding administrative contributions) to the Horizon Europe budget, and the difference is at least 8% of that contribution for each year, any amount above this threshold will be added to the UK's contributions to the Horizon Europe budget. This is the most generous overperformance limit negotiated by any associated country (other than EEA states which have neither clawback nor overperformance provisions). Overperformance limits in other association agreements have an equal or lower threshold than the UK's and trigger after only one year beyond that threshold.

28. UK contributions to the programmes' budgets will be paid by DSIT and will be accounted for in DSIT's accounts.

MINISTERIAL NAME AND SIGNATURE

A handwritten signature in blue ink, appearing to read 'Jeremy Hunt', with a horizontal line underneath.

Jeremy Hunt MP

Chancellor of the Exchequer

HM Treasury

