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PROPOSAL

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 24 February 2022

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: COM(2022) 64 final - ANNEX

Subject: ANNEX to the COUNCIL DECISION on the signing, on behalf of the Union, and on provisional application of the Agreement between the European Union, of the one part, and the Government of the Faroe Islands, of the other part, on the participation of the Faroe Islands in Union programmes

Delegations will find attached document COM(2022) 64 final - ANNEX.

Encl.: COM(2022) 64 final - ANNEX



EUROPEAN
COMMISSION

Brussels, 24.2.2022
COM(2022) 64 final

ANNEX

ANNEX

to the

COUNCIL DECISION

on the signing, on behalf of the Union, and on provisional application of the Agreement between the European Union, of the one part, and the Government of the Faroe Islands, of the other part, on the participation of the Faroe Islands in Union programmes

ANNEX

AGREEMENT BETWEEN the European Union, of the one part, and the Government of the Faroe Islands, of the other part, on the participation of the Faroe Islands in Union programmes

The European Union (hereinafter referred to as ‘the Union’),

of the one part,

and

the Government of the Faroe Islands (hereinafter referred to as ‘the Faroe Islands’),

of the other part,

hereinafter referred to as ‘the Parties’,

NOTING the wish of the Faroe Islands to become associated to a wider range of Union programmes and activities;

CONSIDERING that the Faroe Islands concludes this agreement on behalf of the Kingdom of Denmark pursuant to the Act on the Conclusion of Agreements under International Law by the Government of the Faroe Islands;

WISHING to establish a lasting framework for cooperation between the Parties with clear and precise terms and conditions for participation of the Faroe Islands in the Union programmes and activities as well as a mechanism facilitating the establishment of such participation in individual Union programmes or activities;

NOTING in particular the wish of the Faroe Islands to further strengthen relations within its fields of competences with the Union, including but not limited to cooperation in research and innovation as well as education, training, youth, culture and sport;

CONSIDERING the common goals, values and strong links of the Parties in the field of research and innovation, established in the past through the Association Agreements to the subsequent Framework Programmes for Research and Innovation¹, and recognising the common desire of the Parties to further develop, strengthen, stimulate and extend their relations and cooperation therein;

WHEREAS the European Union programme Horizon Europe - the Framework Programme for Research and Innovation - was established by Regulation (EU) 2021/695 of the European Parliament and of the Council² (hereinafter referred to as ‘Horizon Europe Programme’);

¹ Agreement between the European Union and the Government of the Faroes on scientific and technological cooperation (OJ L 245, 17.9.2010, p.2), Agreement for scientific and technological cooperation between the European Union and the Faroe Islands associating the Faroe Islands to Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) (OJ L 35, 11.2.2015, p.3.).

² Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p.1.).

CONSIDERING the Union's efforts to lead the response by joining forces with its international partners to address global challenges in line with the plan of action for people, planet and prosperity in the United Nations' 'Transforming our World: the 2030 Agenda for Sustainable Development', and acknowledging that research and innovation are key drivers and essential tools for innovation-led sustainable growth, for economic competitiveness and attractiveness;

RECOGNISING the general principles as set out in Regulation (EU) 2021/695;

ACKNOWLEDGING the objectives of the renewed European Research Area to build a common scientific and technological area, create a single market for research and innovation, foster and facilitate the cooperation between organisations in the field of research and innovation, including universities, and the exchange of best practices and attractive research careers, facilitate cross-border and inter-sectoral mobility of researchers, foster free movement of scientific knowledge and innovation, promote the respect of academic freedom and freedom of scientific research, support science education and communication activities, and encourage competitiveness and attractiveness of participating economies, and that associated countries to the Horizon Europe Programme are key potential partners in this endeavour;

EMPHASISING the role of the European Partnerships addressing some of Europe's most pressing challenges through concerted research and innovation initiatives contributing significantly to those Union's priorities in the area of research and innovation that require critical mass and long-term vision and the importance of associated countries' involvement in those European Partnerships;

SEEKING to establish mutually advantageous conditions in order to create decent jobs, to strengthen and support innovation ecosystems of the Parties by helping enterprises to innovate and scale up in the markets of the Parties and facilitating the uptake as well as deployment and accessibility of innovation, including capacity building activities;

RECOGNISING that reciprocal participation in each other's research and innovation programmes should provide mutual benefits; while acknowledging that the Parties reserve their right to limit or condition participation in their research and innovation programmes including in particular for actions related to their strategic assets, interests, autonomy or security,

HAVE AGREED AS FOLLOWS:

Article 1

Subject matter

This agreement establishes the rules applicable to the participation of the Faroe Islands in any Union programme or activity (hereinafter referred to as 'the Agreement').

Article 2

Definitions

For the purposes of this Agreement, the following definitions apply:

(a) ‘basic act’ means:

(i) a legal act of one or more Union institutions, other than a recommendation or an opinion, establishing a programme, which provides a legal basis for an action and for the implementation of the corresponding expenditure entered in the Union budget or of the budgetary guarantee or financial assistance backed by the Union budget, including any amendment and any relevant acts of a Union institution which supplement or implement that act, except those adopting work programmes, or

(ii) a legal act of one or more Union institutions other than a recommendation or an opinion, establishing an activity financed from the Union budget other than programmes, including any amendment and any relevant acts of a Union institution which supplement or implement that act, except those adopting work programmes;

(b) ‘funding agreement’ means agreements relating to Union programmes and activities under the Protocols to this Agreement, in which the Faroe Islands participate, which implement Union funds, such as grant agreements, contribution agreements, financial framework partnership agreements, financing agreements and guarantee agreements;

(c) ‘other rules pertaining to the implementation of the Union programme and activity’ means rules laid down in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council³ (‘Financial Regulation’) that apply to the general budget of the Union, and in the work programme or in the calls or other Union award procedures;

(d) ‘Union award procedure’ means a procedure for award of Union funding launched by the Union or by persons or entities entrusted with the implementation of Union funds;

(e) ‘the Faroe Islands entity’ means any type of entity, whether a natural person, legal person or another type of entity, which may participate in activities of a Union programme or activity in accordance with the basic act and who resides or which is established in the Faroe Islands.

Article 3

Establishment of the participation

1. The Faroe Islands shall be allowed to participate in and contribute to the Union programmes, activities, or in exceptional cases, the part of Union programmes or activities, which are opened to the participation of the Faroe Islands in accordance with the basic acts and as covered by the Protocols.

³ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ EU L 193, 30.7.2018, p.1.).

2. The specific terms and conditions for participation of the Faroe Islands in the Framework Programme for Research and Innovation (2021-2027) are laid down in the Protocol on the association of the Faroe Islands to Horizon Europe – the Framework Programme for Research and Innovation (2021-2027). Notwithstanding Article 15 (7) of this Agreement, that Protocol may be amended by the Joint Committee established under this Agreement.

3. Notwithstanding Article 15 (7) of this Agreement, the specific terms and conditions for participation of the Faroe Islands in any other particular Union programme or activity shall be laid down in Protocols to this Agreement to be adopted and amended by the Joint Committee established under this Agreement.

4. The Protocols shall:

(a) identify the Union programmes, activities, or in exceptional cases, the part of Union programmes or activities, in which the Faroe Islands shall participate;

(b) lay down the duration of participation, which shall refer to the period of time during which the Faroe Islands and Faroe Islands entities may apply for Union funding or may be entrusted with implementation of Union funds;

(c) lay down specific conditions for the participation of the Faroe Islands and Faroe Islands entities, including specific modalities for the implementation of the financial conditions as identified under Articles 6 and 7 of this Agreement, specific modalities of the correction mechanism as identified under Article 8 of this Agreement, and conditions for participation in structures created for the purposes of implementing those Union programmes or activities. These conditions shall comply with this Agreement and the basic acts and acts of one or more Union institutions establishing such structures;

(d) where applicable, lay down the amount of the Faroe Islands' contribution to a Union programme implemented through a financial instrument or a budgetary guarantee.

Article 4

Compliance with the programme or activity rules

1. The Faroe Islands shall participate in the Union programmes, activities or parts thereof covered by the Protocols to this Agreement under the terms and conditions established in this Agreement, its Protocols, in the basic acts and other rules pertaining to the implementation of Union programmes and activities.

2. The terms and conditions referred to in paragraph 1 shall include:

(a) the eligibility of the Faroe Islands entities and any other eligibility conditions related to the Faroe Islands, in particular to the origin, place of activity or nationality;

(b) the terms and conditions applicable to the submission, assessment and selection of applications and to the implementation of the actions by eligible Faroe Islands entities.

3. The terms and conditions referred to in point (b) of paragraph 2 shall be equivalent to those applicable to eligible Member States entities, including respect for the

European Union restrictive measures⁴ unless otherwise provided for in the terms and conditions referred to in paragraph 1.

Article 5

Participation of the Faroe Islands in the governance of programmes or activities

1. Representatives or experts of the Faroe Islands or experts designated by the Faroe Islands shall be allowed to take part as observers unless it concerns points reserved only for Member States or in relation to a programme or activity in which the Faroe Islands are not participating, in the committees, expert groups meetings or other similar meetings where representatives or experts of the Member States, or experts designated by Member States take part, and which assist the European Commission in the implementation and management of the programmes, the activities or parts thereof, in which the Faroe Islands participate in accordance with Article 3 or are established by the European Commission in respect of the implementation of the Union law in relation to these programmes, activities or parts thereof. The representatives or experts of the Faroe Islands, or experts designated by the Faroe Islands shall not be present at the time of voting. The Faroe Islands shall be informed of the result of the vote.
2. Where experts or evaluators are not appointed on the basis of nationality, nationality shall not be a reason to exclude Faroe Islands experts and evaluators.
3. Subject to the conditions of paragraph 1, participation of the Faroe Islands' representatives in the meetings referred to in paragraph 1, or in other meetings related to the implementation of programmes or activities, shall be governed by the same rules and procedures as those applicable to representatives of the Member States, in particular speaking rights, receipt of information and documentation unless it concerns points reserved only for Member States or in relation to a programme or activity in which the Faroe Islands are not participating, and the reimbursement of travel and subsistence costs.
4. Protocols to this Agreement may define further modalities for the participation of experts, as well as the participation of the Faroe Islands in governing boards and structures created for the purposes of implementing Union programmes or activities defined in the respective Protocol.

Article 6

Financial conditions

1. Participation of the Faroe Islands or Faroe Islands entities in Union programmes, activities or parts thereof shall be subject to the Faroe Islands contributing financially to the corresponding funding under the Union budget.

⁴ The EU restrictive measures are restrictive measures adopted pursuant to the Treaty on the European Union or the Treaty on the Functioning of the European Union.

2. The financial contribution shall take the form of the sum of:
 - (a) a participation fee; and
 - (b) an operational contribution.
3. The financial contribution shall take the form of an annual payment made in one or more instalments.
4. Without prejudice to paragraph 8 of this Article and Article 7, the participation fee shall be 4% of the annual operational contribution and shall not be subject to retrospective adjustments. As of 2028, the level of the participation fee may be adjusted by the Joint Committee.
5. The operational contribution shall cover operational and support expenditures and be additional both in commitment and payment appropriations to the amounts entered in the Union budget definitively adopted for programmes or activities or exceptionally parts thereof increased, where appropriate, by external assigned revenue that does not result from financial contributions to Union programmes and activities from other donors, covered by each respective Protocol to this Agreement.
6. The initial operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of the Faroe Islands at market prices to the GDP of the European Union at market prices. The GDPs at market prices to be applied shall be determined by the dedicated Commission services based on the most recent statistical data available for budget calculations in the year prior to the year in which the annual payment is due. By derogation, for 2021, the initial operational contribution shall be based on the GDP of the year 2019 at market prices. Adjustments to this contribution key may be laid down in respective Protocols.
7. The operational contribution shall be based on the application of the contribution key to the initial commitment appropriations increased as described in paragraph 5 of this Article entered in the Union budget definitively adopted for the applicable year for financing the Union programmes or activities or exceptionally parts thereof in which the Faroe Islands participate.
8. The participation fee referred to in paragraph 2 of this Article shall have the following value in the years 2021 to 2027:
 - 2021: 0,5%;
 - 2022: 1%;
 - 2023: 1,5%;
 - 2024: 2%;
 - 2025: 2,5%;
 - 2026: 3%;
 - 2027: 4%.
9. Upon request, the Union shall provide the Faroe Islands with information in relation to its financial participation as included in the budgetary, accounting, performance and evaluation related information provided to the Union budgetary and discharge authorities concerning the Union programmes and activities in which the Faroe Islands participate. That information shall be provided having due regard to the Union's and the Faroe Islands' confidentiality and data protection rules and is

without prejudice to the information which the Faroe Islands are entitled to receive under Article 10 of this Agreement.

10. All contributions of the Faroe Islands or payments from the Union, and the calculation of amounts due or to be received, shall be made in euros.
11. Detailed provisions for the implementation of this Article are set out in the respective Protocols.

Article 7

Programme and activities to which an adjustment mechanism applies

1. If so provided in a respective Protocol, the operational contribution of a programme, activity or part thereof for a year N may be adjusted upwards or downwards retrospectively in one or more subsequent years on the basis of the budgetary commitments made on the commitment appropriations of that year, their implementation through legal commitments and their decommitment.
2. The first adjustment shall be made in year N+1 when the initial contribution shall be adjusted upwards or downwards by the difference between the initial contribution and an adjusted contribution calculated by applying the contribution key of year N, adjusted via the application of a co-efficient if the respective Protocol so provides, to the sum of:
 - (a) the amount of budgetary commitments made on commitment appropriations authorised in year N under the Union adopted budget and on commitment appropriations corresponding to decommitments made available again; and
 - (b) any external assigned revenue appropriations that do not result from financial contributions to Union programmes and activities from other donors covered in each respective Protocol to this Agreement and that were available at the end of year N.
3. Each subsequent year, until all the budgetary commitments financed under commitment appropriations originating from year N have been paid or decommitted and at the latest 3 years after the end of the programme or after the end of the multiannual financial framework corresponding to year N, whichever is earlier, the Union shall calculate an adjustment of the contribution of year N by reducing the Faroe Islands' contribution by the amount obtained by applying the contribution key, adjusted if the respective Protocol so provides, of year N to the decommitments made each year on commitments of year N financed under the Union budget or from decommitments made available again.
4. If external assigned revenue appropriations that do not result from financial contributions to Union programmes and activities from other donors covered by each respective Protocol to this Agreement are cancelled, the contribution of the Faroe Islands to the respective Union Programme, activity or part thereof shall be reduced by the amount obtained by applying the contribution key, adjusted if the respective Protocol so provides, of year N to the amount cancelled.

Article 8

Programmes and activities to which an automatic correction mechanism applies

1. An automatic correction mechanism shall apply in relation to those Union programmes, activities or parts thereof for which the application of an automatic correction mechanism is provided for in a respective Protocol. The application of that automatic correction mechanism may be limited to parts of the programme or activity specified in a respective Protocol, which are implemented through grants for which competitive calls are organised. Detailed rules on the identification of the parts of the programme or activity to which the automatic correction mechanism does or does not apply may be established in the respective Protocol.
2. The amount of the automatic correction for a programme or activity or parts thereof shall be the difference between the initial amounts of the legal commitments actually entered into with the Faroe Islands or Faroe Islands entities financed from commitment appropriations of the year in question and the corresponding operational contribution paid by the Faroe Islands as adjusted pursuant to Article 7, excluding support expenditure, covering the same period.
3. Detailed rules on the establishment of the relevant amounts of the legal commitments referred to in paragraph 2 of this Article, including in the case of consortia, and on the calculation of the automatic correction, may be laid down in the respective Protocol.

Article 9

Reviews and audits

1. The Union shall have the right to conduct, in accordance with the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or any legal entity established in the Faroe Islands and receiving Union funding, as well as any third party involved in the implementation of Union funds residing or established in the Faroe Islands. Such review and audits may be carried out by the agents of the institutions and bodies of the Union, in particular of the European Commission and the European Court of Auditors, or by other persons mandated by the European Commission in accordance with Union law.
2. The agents of the institutions and bodies of the Union, in particular of the European Commission and the European Court of Auditors, and the other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (in electronic and paper versions) and to all the information required in order to carry out such audits, including the right of obtaining a physical/electronic copy of, and extracts from, any document or the contents of any data medium held by the audited natural or legal person, or by the audited third party.
3. The Faroe Islands shall not prevent or raise any particular obstacle to the right of entrance in the Faroe Islands and to the access to the premises of the agents and other persons referred to in paragraph 2 of this Article on the grounds of the exercise of their duties referred to in this Article.
4. The reviews and audits may be carried out, also after the suspension of application of a Protocol to this Agreement pursuant to its Article 15(4), the cessation of

provisional application or termination of this Agreement, on the terms laid down in the applicable acts of one or more Union institutions or bodies and as provided in relevant agreements and/or contracts in relation to any legal commitment implementing the Union budget entered into by the Union before the date on which the suspension of application of the relevant Protocol, the cessation of provisional application or termination of this Agreement takes effect.

Article 10

Fight against irregularities, fraud and other criminal offences affecting the financial interests of the Union

1. The European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out administrative investigations, including on-the-spot checks and inspections, on the territory of the Faroe Islands. These investigations shall be carried out in accordance with the terms and conditions established by applicable acts of one or more Union institutions.
2. The competent Faroe Islands authorities shall inform the European Commission or OLAF within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity, fraud or other illegal activity affecting the financial interests of the Union.
3. On-the-spot checks and inspections may be carried out on the premises of any natural person residing in or legal entity established in the Faroe Islands and receiving Union funds, as well as of any third party involved in the implementation of Union funds residing or established in the Faroe Islands.
4. On-the-spot checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent Faroe Islands authority designated by the government of the Faroe Islands. The designated authority shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that it can provide assistance. To that end, the officials of the competent Faroe Islands authorities may participate in the on-the-spot checks and inspections.
5. Upon request by the authorities of the Faroe Islands, the on-the-spot checks and inspections may be carried out jointly with the European Commission or OLAF.
6. Commission agents and OLAF staff shall have access to all the information and documentation, including computer data, on the operations concerned, which are required for the proper conduct of the on-the-spot checks and inspections. They may, in particular, copy relevant documents.
7. Where the person, entity or another third party resists an on-the-spot check or inspection, the authorities of the Faroe Islands, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to allow them to fulfil their duty in carrying out an on-the-spot check or inspection. That assistance shall include taking the appropriate precautionary measures under national law, in particular in order to safeguard evidence.
8. The European Commission or OLAF shall inform the authorities of the Faroe Islands of the result of such checks and inspections. In particular, the European Commission

or OLAF shall report as soon as possible to the competent Faroe Islands authority any fact or suspicion relating to an irregularity which has come to their notice in the course of the on-the-spot check or inspection.

9. Without prejudice to application of the Faroe Islands criminal law, the European Commission may impose administrative measures and penalties on legal or natural persons of the Faroe Islands participating in the implementation of a programme or activity in accordance with Union legislation.
10. For the purposes of proper implementation of this Article, the European Commission or OLAF and the competent authorities of the Faroe Islands shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other.
11. In order to facilitate effective cooperation and exchange of information with OLAF, the Faroe Islands shall designate a contact point.
12. Information exchanged between the European Commission or OLAF and the Faroe Islands' competent authorities shall take place having due regard to the confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.
13. The authorities of the Faroe Islands shall cooperate with the European Public Prosecutor's Office to allow it to fulfil its duty to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the Union in accordance with the applicable legislation.

Article 11

Amendments to Articles 9 and 10

The Joint Committee under this Agreement may amend Articles 9 and 10 of this Agreement, in particular to take account of changes of acts of one or more Union institutions.

Article 12

Recovery and enforcement

1. Decisions adopted by the European Commission imposing a pecuniary obligation on legal or natural persons other than States in relation to any claims stemming from Union programmes, activities, actions or projects shall be enforceable in the Faroe Islands. The order for enforcement shall be appended to the decision, without any other formality than a verification of the authenticity of the decision by the national authority designated for this purpose by the government of the Faroe Islands. The government of the Faroe Islands shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 13, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in the Faroe Islands. Enforcement shall take place in accordance with the Faroe Islands' law and rules of procedure.
2. Judgments and orders of the Court of Justice of the European Union delivered in application of an arbitration clause contained in a contract or agreement in relation to Union programmes, activities, actions or projects shall be enforceable in the Faroe

Islands in the same manner as European Commission decisions referred to in paragraph 1 of this Article.

3. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission referred to in paragraph 1 and to suspend its enforcement. However, the Courts of the Faroe Islands shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

Article 13

Communication and exchange of information

The Union institutions and bodies involved in the implementation of Union programmes or activities, or in control of such programmes or activities, shall be entitled to communicate directly, including through electronic exchange systems, with any natural person residing in the Faroe Islands or legal entity established in the Faroe Islands receiving Union funding, as well as with any third party involved in the implementation of Union funding that resides or is established in the Faroe Islands. Such persons, entities and third parties may submit directly to the Union institutions and bodies all relevant information and documentation which they are required to submit on the basis of the Union legislation applicable to the Union programme or activity and on the basis of the contracts or funding agreements concluded to implement that programme or activity.

Article 14

The Joint Committee

- (1) The Joint Committee is hereby established. The tasks of the Joint Committee shall include:
 - (a) assessing, evaluating and reviewing the implementation of this Agreement and its Protocols, in particular:
 - (i) the participation and performance of the Faroe Islands legal entities in Union programmes and activities;
 - (ii) where relevant, the level of (mutual) openness to the legal entities established in each Party to participate in programmes, projects, actions, activities or parts thereof of the other Party;
 - (iii) the implementation of the financial contribution mechanism and where relevant the automatic correction mechanism applicable to Union programmes or activities covered by Protocols to this Agreement;
 - (iv) information exchange and where relevant examining any possible questions on the exploitation of results, including intellectual property rights;
 - (b) discussing upon request of either Party restrictions applied or planned by the Parties on access to their respective research and innovation programmes, including in particular for actions related to their strategic assets, interests, autonomy or security;
 - (c) examining how to improve and develop cooperation;

- (d) discussing jointly the future orientations and priorities of policies related to programmes or activities covered by the Protocols to this Agreement;
 - (e) exchanging information, inter alia, on new legislation, decisions or national programmes that are relevant for the implementation of this Agreement and its Protocols;
 - (f) adopting Protocols to this Agreement on specific terms and conditions of participation of the Faroe Islands in Union programmes, activities or parts thereof, or amending such Protocols as needed;
 - (g) amending Articles 9 and 10 of this Agreement, in particular to take account of changes of acts of one or more Union institutions.
- (2) Decisions of the Joint Committee shall be taken by consensus.
 - (3) The Joint Committee, which shall be composed of representatives of the Union and of the Faroe Islands, shall adopt its Rules of Procedure.
 - (4) The Joint Committee may decide to set up any working party/advisory body on an ad hoc basis at expert level that can assist in carrying out the implementation of this Agreement.
 - (5) The Joint Committee shall meet at least once a year, and, whenever special circumstances so require, at the request of any of the Parties. The meetings shall be organised and hosted alternately by the Union and by the Faroe Islands.
 - (6) The Joint Committee shall work on an on-going basis through an exchange of relevant information by any means of communication, in particular in relation to the participation/performance of the Faroe Islands entities. The Joint Committee may in particular conduct its tasks in writing whenever the need arises.

Article 15

Final provisions

- (1) This Agreement shall enter into force on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose. It shall apply retroactively from 1 January 2021.
- (2) The Parties may apply this Agreement provisionally in accordance with their respective internal procedures and legislation. The provisional application shall begin on the date on which the Parties have notified each other of the completion of their internal procedures necessary for that purpose.
- (3) Should the Faroe Islands notify the Commission, acting on behalf of the Union, that they will not complete their internal procedures necessary for the entry into force of this Agreement, this Agreement shall cease to apply provisionally on the date of receipt of this notification by the Commission, which shall constitute the cessation date for the purposes of this Agreement.
The decisions of the Joint Committee shall cease to apply on the same date.
- (4) The application of a relevant Protocol to this Agreement may be suspended by the Union in case of partial or full non-payment of the financial contribution due by the Faroe Islands under the respective Union programme or activity.

In case of non-payment which may significantly jeopardise the implementation and management of the relevant Union programme or activity, the European Commission shall send a formal letter of reminder. Should no payment be made within 20 working days after the formal letter of reminder, suspension of the application of the relevant Protocol shall be notified by the Union to the Faroe Islands by a formal letter of notification which shall take effect 15 days following the receipt of this notification by the Faroe Islands.

In case the application of a Protocol is suspended, the Faroe Islands entities shall not be eligible to participate in award procedures that are not yet completed when the suspension takes effect. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

The suspension does not affect the legal commitments entered into with the Faroe Islands entities under the relevant Union programme or activity before the suspension took effect. The relevant Protocol shall continue to apply to such legal commitments.

The Union shall immediately notify the Faroe Islands once the entire amount of the financial contribution due has been received by the Union. The suspension shall be lifted with an immediate effect upon this notification.

As of the date when the suspension is lifted, the Faroe Islands entities shall be again eligible in award procedures launched under the relevant Union programme or activity after this date and in award procedures launched before this date, for which the deadlines for submission of applications has not expired.

- (5) Either Party may terminate this Agreement at any time by a written notification informing of the intent to terminate it. This Agreement may only be terminated in its entirety.

The termination shall take effect three calendar months after the date on which the written notification reaches its addressee. The date on which the termination takes effect shall constitute the termination date for the purposes of this Agreement.

- (6) Should the Agreement cease to apply provisionally in accordance with paragraph 3 or be terminated in accordance with paragraph 5 the Parties agree that:

(a) projects, actions, activities or parts thereof in respect of which legal commitments have been entered into during the provisional application and/or after the entry into force of this Agreement, and before this Agreement ceases to apply or is terminated, shall continue until their completions under the conditions laid down in this Agreement;

(b) the annual financial contribution to the relevant programme or activity of the year N during which this Agreement ceases to apply provisionally or is terminated shall be paid entirely in accordance with Article 6 of the Agreement and any relevant rules in the respective Protocols. Where the adjustment mechanism applies, the operational contribution to the relevant programme or activity of the year N shall be adjusted in accordance with Article 7 of this Agreement. For programmes or activities where both the adjustment mechanism and the automatic correction mechanism apply, the relevant operational contribution of the year N shall be adjusted in accordance with Article 7 of this Agreement and corrected in accordance

with its Article 8. The participation fee paid for the year N as part of the financial contribution to the relevant programme or activity shall not be adjusted or corrected.

(c) where the adjustment mechanism applies, following the year during which this Agreement ceases to apply provisionally or is terminated, the initial operational contributions to the relevant programme or activity paid for the years during which this Agreement applied shall be adjusted in accordance with Article 7. In relation to programmes or activities where both the adjustment mechanism and the automatic correction mechanism apply, these operational contributions shall be adjusted in accordance with Article 7 and automatically corrected in accordance with Article 8.

- (7) The Parties shall settle by common consent any other consequences of termination or cessation of provisional application of this Agreement.
- (8) This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as that applicable for the entry into force of this Agreement as provided in paragraph 1 of this Article.
- (9) Protocols shall constitute an integral part of this Agreement.

Done at ..., this day of in the year

For the European Union,

For the Government of the Faroe Islands,

Protocol on the association of the Faroe Islands to Horizon Europe – the Framework Programme for Research and Innovation (2021-2027)

Article 1

Scope of the association

- (1) The Faroe Islands shall participate as an associated country in and contribute to all parts of the Horizon Europe Programme - the Framework Programme for Research and Innovation (the Horizon Europe Programme) referred to in Article 4 of Regulation (EU) 2021/695 of the European Parliament and of the Council⁵, and implemented through the specific programme established by Council Decision (EU) 2021/764⁶, in their most up to date versions, and through a financial contribution to the European Institute of Innovation and Technology.
- (2) Regulation (EU) 2021/819 of the European Parliament and of the Council⁷, and Decision (EU) 2021/820 of the European Parliament and of the Council⁸, in their most up to date versions, shall apply to the participation of the Faroe Islands entities in Knowledge and Innovation Communities.

Article 2

Additional conditions of participation in the Horizon Europe Programme

- (1) Before deciding on whether the Faroe Islands entities are eligible to participate in an action related to EU strategic assets, interests, autonomy or security under Article 22(5) of Regulation (EU) 2021/695, the Commission may request specific information or assurances, such as:
 - (a) information whether reciprocal access has been or will be granted to Union entities to existing and planned programmes, projects, actions, activities or parts thereof of the Faroe Islands equivalent to the Horizon Europe Programme concerned;
 - (b) information whether the Faroe Islands have in place a national investment screening mechanism and assurances that authorities of the Faroe Islands will report on and consult the Commission on any possible cases where in

⁵ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ EU L 170, 12.5.2021, p.1.).

⁶ Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ EU L 167I, 12.5.2021, p.1.).

⁷ Regulation (EU) 2021/819 of the European Parliament and of the Council of 20 May 2021 on the European Institute of Innovation and Technology (recast), (OJ EU L 189, 28.5.2021, p.61.).

⁸ Decision (EU) 2021/820 of the European Parliament and of the Council of 20 May 2021 on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT) 2021-2027: Boosting the Innovation Talent and Capacity of Europe and repealing Decision No 1312/2013/EU (OJ EU L 189, 28.5.2021, p. 91.).

application of such a mechanism they have become aware of planned foreign investment/takeover by an entity established or controlled from outside the Faroe Islands of a Faroe Islands entity, which has received Horizon Europe funding in actions related to Union strategic assets, interests, autonomy or security, provided that the Commission supplies the Faroe Islands with the list of the relevant Faroe Islands entities following the signature of grant agreements with these entities; and

- (c) assurances that none of the results, technologies, services and products developed under the concerned actions by the Faroe Islands entities shall be subject to restrictions on their export to Union Member States during the action and for four years after the end of the action. The Faroe Islands will share an up-to-date list of subjects of national export restrictions on annual basis, during the action and for four years after the end of the action.
- (2) The Faroe Islands entities may participate in the activities of the Joint Research Centre (JRC) under terms and conditions equivalent to those applicable to Union entities unless limitations are necessary to ensure consistency with the scope of participation stemming from the implementation of paragraph 1 of this Article.
- (3) Where the Union implements the Horizon Europe Programme through the application of Articles 185 and 187 of the Treaty on the Functioning of the European Union, the Faroe Islands and the Faroe Islands entities may participate in the legal structures created under those provisions, in conformity with the Union legal acts that have been or will be adopted for the establishment of those legal structures.
- (4) The Faroe Islands' rights of representation and participation in the European Research Area Committee and its subgroups shall be those applicable to the relevant category of associated countries.
- (5) Representatives of the Faroe Islands shall have the right to participate as observers in the Board of Governors of the JRC, without voting rights. Subject to that condition, such participation shall be governed by the same rules and procedures as those applicable to representatives of Member States of the Union, including speaking rights and procedures for receipt of information and documentation in relation to a point that concerns the Faroe Islands.
- (6) The Faroe Islands may participate in a European Research Infrastructure Consortium (ERIC) in accordance with Council Regulation (EC) No [723/2009](#)⁹, in its most up to date version, and with the legal act establishing the ERIC.
- (7) The Parties shall make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of persons participating in the activities covered by this Protocol and to facilitate cross-border movement of goods and services intended for use in such activities.
- (8) The Faroe Islands shall take all necessary measures, as appropriate, to ensure that goods and services, purchased in the Faroe Islands or imported into the Faroe Islands, which are partially or entirely financed pursuant to the grant agreements and/or contracts concluded for the realisation of the activities in accordance with this Protocol, are exempted from customs duties, import duties and other fiscal charges, including the VAT, that are applicable in the Faroe Islands.

⁹ Council Regulation (EC) No [723/2009](#) of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ EU L 206, 8.8.2009, p.1.).

Article 3

Reciprocity

Legal entities established in the Union may participate in programmes, projects, actions activities or parts thereof of the Faroe Islands equivalent to the Horizon Europe Programme, in accordance with the applicable laws and regulations of the Faroe Islands.

The non-exhaustive list of the equivalent programmes, projects, actions, activities or parts thereof of the Faroe Islands is provided in Annex II to this Protocol.

Funding by the Faroe Islands of legal entities established in the Union shall be subject to the Faroe Islands' applicable laws and regulations governing the operation of research and innovation programmes, projects, actions, activities or parts thereof. Where funding is not provided, legal entities established in the Union may participate with their own means.

Article 4

Open Science

The Parties shall mutually promote and encourage open science practices in their programmes, projects, actions, activities or parts thereof in accordance with the rules of the Horizon Europe Programme and the applicable laws and regulations of the Faroe Islands.

Article 5

Detailed rules on financial contribution, adjustment mechanism and automatic correction mechanism

- (1) An adjustment mechanism and automatic correction mechanism shall apply in relation to the operational contribution of the Faroe Islands to the Horizon Europe Programme.
- (2) The automatic correction mechanism shall be based on the performance of the Faroe Islands and the Faroe Islands entities in the parts of the Horizon Europe Programme, which are implemented through competitive grants.
- (3) Detailed rules for application of the automatic correction mechanism are laid down in Annex I to this Protocol.

Article 6

Final provisions

- (1) This Protocol shall remain in force for as long as is necessary for all the projects and/or actions activities or parts thereof financed from the Horizon Europe Programme, all the actions necessary to protect the financial interests of the Union and all the financial obligations stemming from the implementation of this Protocol between the Parties to be completed.
- (2) The Annexes to this Protocol shall form an integral part of the Protocol.

Annex I: Rules governing the financial contribution of the Faroe Islands to the Horizon Europe Programme (2021-2027)

Annex II: List of the equivalent programmes, projects, actions, activities or parts thereof of the Faroe Islands

ANNEX I

Rules governing the financial contribution of the Faroe Islands to the Horizon Europe Programme (2021-2027)

I. Calculation of the financial contribution of the Faroe Islands

- (1) The financial contribution of the Faroe Islands to the Horizon Europe Programme shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the Union budget for commitment appropriations needed for the management, execution and operation of the Horizon Europe Programme, increased in accordance with Article 6(5) of this Agreement.
- (2) The participation fee of the Faroe Islands shall be established and phased in according to Article 6(4) and (8) of this Agreement.
- (3) In accordance with Article 6(6) of this Agreement, the initial operational contribution to be paid by the Faroe Islands for their participation in the Horizon Europe Programme will be calculated for the respective financial years by applying an adjustment to the contribution key.

The adjustment to the contribution key shall be:

$$\text{Contribution Key Adjusted} = \text{Contribution Key} \times \text{Coefficient}$$

The coefficient used for the above calculation to adjust the contribution key shall be 0,4.

- (4) The operational contribution of the Faroe Islands to Horizon Europe shall be adjusted in accordance with rules provided in Article 7 of this Agreement.

II. Automatic correction of the Faroe Islands' operational contribution

- (1) For the calculation of the automatic correction as referred to in Article 8 of this Agreement and Article 5 of this Protocol, the following modalities shall apply:
 - (a) 'competitive grants' means grants awarded through calls for proposals where the final beneficiaries can be identified at the time of the calculation of the automatic correction. Financial support to third parties as defined in Article 204 of the Financial Regulation is excluded;
 - (b) where a legal commitment is signed with a consortium, the amounts used to establish the initial amounts of the legal commitment shall be the cumulative amounts allocated to beneficiaries that are the Faroe Islands entities in accordance with the indicative budget breakdown of the grant agreement;

- (c) all amounts of legal commitments corresponding to competitive grants shall be established using the European Commission electronic system eCorda and be extracted on the second Wednesday of February of year N+2;
- (d) ‘non-intervention costs’ means costs of the Programme other than competitive grants, including support expenditure, programme-specific administration, other actions¹⁰;
- (e) amounts allocated to international organisations as legal entities being the final beneficiary¹¹ shall be considered as non-intervention costs.

(2) The mechanism shall be applied as follows:

- (a) Automatic corrections for year N in relation to the execution of commitment appropriations for year N, increased in accordance with Article 6(5) of this Agreement, shall be applied based on data on year N and year N+1 from e-Corda referred to in point c) of paragraph (1) of point (II) of this Annex in year N+2 after any adjustments in accordance with Article 7 of this Agreement have been applied to the contribution of the Faroe Islands to the Horizon Europe Programme. The amount considered will be the amount of competitive grants for which data is available, at the time of the calculation of the correction.
- (b) Starting in year N+2 and up until 2029, the amount of the automatic correction shall be calculated for year N by taking the difference between:
 - i. the total amount of the competitive grants apportioned to the Faroe Islands or the Faroe Islands entities as commitments made on budget appropriations of year N; and
 - ii. the amount of the Faroe Islands adjusted operational contribution for year N multiplied by the ratio between:
 - A. the amount of competitive grants made on commitment appropriations of year N, increased in accordance with Article 6(5) of this Agreement; and
 - B. the total of all the authorised budgetary commitment appropriations of year N, including non-intervention costs.

III. Payment of the Faroe Islands’ financial contribution, payment of the adjustments made on the Faroe Islands’ operational contribution, and payment of the automatic correction applicable to the Faroe Islands’ operational contribution

¹⁰ Other actions include notably procurement, prizes, financial instruments, direct actions of the Joint Research Centre, Subscriptions (OECD, Eureka, IPEEC, IEA, ...), experts (evaluators, monitoring of projects) etc.

¹¹ International organisations would only be considered as non-intervention costs if they are final beneficiaries. This will not apply where an international organisation is a coordinator of a project (distributing funds to other coordinators).

- (1) The Commission shall communicate to the Faroe Islands, as soon as possible and at the latest when issuing the first call for funds of the financial year, the following information:
 - (a) the amounts in commitment appropriations in the Union budget definitively adopted for the year in question for the budget lines covering participation of the Faroe Islands, in Horizon Europe Programme increased, if relevant, in accordance with Article 6(5) of this Agreement;
 - (b) the amount of the participation fee referred to in Article 6(8) of this Agreement;
 - (c) from year N+1 of implementation of the Horizon Europe Programme, the implementation of commitment appropriations corresponding to budgetary year N, increased in accordance with Article 6(5) of this Agreement and the level of decommitment;
 - (d) for the part of the Horizon Europe Programme where such information is necessary to calculate the automatic correction, the level of commitments entered into in favour of the Faroe Islands entities broken down according to the corresponding year of budgetary appropriations and the related total level of commitments.

On the basis of its Draft Budget, the Commission shall provide an estimate of information for the following year under points (a) and (b) as soon as possible, and, at the latest, by 1 September of the financial year.

- (2) The Commission shall issue, at the latest in April and in June of each financial year, a call for funds to the Faroe Islands corresponding to its contribution under this Protocol.

Each call for funds shall provide for the payment of six-twelfths of the Faroe Islands' contribution not later than 30 days after the call for funds is issued.

For the first year of implementation of this Protocol, the Commission shall issue a single call for funds, within 60 days of the signature of the Agreement.

- (3) Each year starting in 2023, the calls for funds shall also reflect the amount of the automatic correction applicable to the operational contribution paid for year N-2.

The call for funds issued at the latest in April may also include adjustments of the financial contribution paid by Faroe Islands for the implementation, management and operation of the previous Framework Programme(s) for Research and Innovation in which the Faroe Islands participated.

For each of the financial years 2028, 2029 and 2030, the amount resulting from the automatic correction applied to the operational contributions paid in 2026 and 2027 by the Faroe Islands or from the adjustments made in accordance with Article 7(8) of this Agreement will be due to or from the Faroe Islands.

- (4) The Faroe Islands shall pay their financial contribution under this Protocol in accordance with section III of this Annex. In the absence of payment by the Faroe Islands by the due date, the Commission shall send a formal letter of reminder.

Any delay in the payment of the financial contribution shall give rise to the payment of default interest by the Faroe Islands on the outstanding amount from the due date.

The interest rate for amounts receivable not paid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of *the Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by one and half percentage points.

ANNEX II

List of the equivalent programmes, projects, actions, activities or parts thereof of the Faroe Islands

The following non-exhaustive list shall be regarded as the Faroe Islands' programmes, projects, actions and activities equivalent to the Horizon Europe Programme:

- The Faroese Research Foundation;
- The Fisheries Research Foundation of the Faroe Islands.