



Brussels, 10 December 2025
(OR. en)

14661/25
ADD 1

RECH 475
COASI 128

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	13645/25 + ADD 1
Subject:	Annex to the COUNCIL DECISION authorising the opening of negotiations on behalf of the European Union for the conclusion of an Agreement between the European Union, of the one part, and the Commonwealth of Australia, of the other part, on the participation of the Commonwealth of Australia in Union programmes and the association of Commonwealth of Australia to Horizon Europe – the Framework Programme for Research and Innovation (2021-2027)

DIRECTIVES FOR THE NEGOTIATION OF AN AGREEMENT BETWEEN the European Union, of the one part, and the Commonwealth of Australia, of the other part, on an agreement on the participation of the Commonwealth of Australia in Union programmes and the association of the Commonwealth of Australia to Horizon Europe – the Framework Programme for Research and Innovation (2021-2027).

1. The agreement should provide for the terms and conditions of the participation of the Commonwealth of Australia to any Union programme. It shall:
 - (a) ensure a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;

- (b) lay down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article 21(5) of the Financial Regulation¹;
 - (c) not confer on the third country any decision-making power in respect of the Union programme;
 - (d) guarantee the rights of the Union to ensure sound financial management and to protect its financial interests.
2. The agreement should provide that possible future associations of the Commonwealth of Australia to further Union programmes should take the form of individual protocols to the agreement. The Commission should in negotiations explore the possibility for such protocols to be adopted through a simplified procedure by a body established under the agreement. The general principles relevant for participation to any Union programme would be set by the agreement.
3. The agreement should determine the level of financial contribution payable by the Commonwealth of Australia to the general budget of the Union.

¹ Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast), (OJ L, 2024/2509, , ELI: <http://data.europa.eu/eli/reg/2024/2509/oj>).

4. The Protocol on the participation in Horizon Europe should provide for specific terms and conditions of the participation of the Commonwealth of Australia to Pillar II ‘Global Challenges and European Industrial Competitiveness’ of Horizon Europe – the Framework Programme for Research and Innovation (2021-2027), in line with the Regulation (EU) 2021/695 of the European Parliament and of the Council², Council Decision (EU) 2021/764³ and any other rules pertaining to the implementation of the Programme.
5. The protocol to the agreement should provide for an observer status of the Commonwealth of Australia to the Horizon Europe Programme Committee in function of the Commonwealth of Australia’s scope of association to the Programme (thus only for those configurations of the Programme Committee, which are involved in implementation of Pillar II).
6. The Protocol on the participation in Horizon Europe should provide for a reciprocity clause ensuring reciprocal participation of legal entities established in the Union in the Commonwealth of Australia’s programme(s) equivalent to Pillar II of Horizon Europe, as far as possible.
7. The Protocol on the participation in Horizon Europe should set out the relevant Horizon Europe provisions related to the protection of the Union’s strategic assets, interests, autonomy or security.

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 EU L 170, 12.5.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/695/oj>).

³ 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 167 I, 12.5.2021, p. 1, ELI: <http://data.europa.eu/eli/dec/2021/764/oj>).

8. The agreement should promote shared fundamental values and principles, including in international cooperation in research and innovation.
 9. The agreement should set forth rules concerning sound financial management in relation to Union funding. In particular, the agreement should provide for the adequate protection of the financial interests of the Union, including the prevention, detection, correction and investigation of irregularities, including fraud, the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, the imposition of administrative penalties and the recovery of money. The European Anti-Fraud Office (OLAF) should be able to carry out administrative investigations, including on-the-spot checks and inspections. The European Public Prosecutor's Office should be able to investigate and prosecute criminal offences against the financial interests of the Union.
 10. The Commission should, during negotiations, explore the possibility to include a clause on provisional and/or retroactive application of the agreement.
 11. The agreement should be in coherence with related EU policies and objectives.
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