

PART FIVE

PARTICIPATION IN UNION PROGRAMMES, SOUND FINANCIAL MANAGEMENT AND FINANCIAL PROVISIONS

ARTICLE 708

Scope

1. This Part applies to the participation of the United Kingdom in Union programmes, activities and services thereunder, in which the Parties have agreed that the United Kingdom participates.
2. This Part shall not apply to the participation of the United Kingdom in cohesion programmes under the European territorial cooperation goal or similar programmes having the same objective, which takes place on the basis of the basic acts of one or more Union institutions applicable to those programmes.

The applicable conditions for participation in the programmes referred to in the first subparagraph shall be specified in the applicable basic act and the financing agreement concluded thereunder. The Parties shall agree provisions with similar effect to Chapter 2 concerning the participation of the United Kingdom in those programmes.

ARTICLE 709

Definitions

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

- (a) "basic act" means:
 - (i) an act of one or more Union institutions establishing a programme or activity, 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 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) an act of one or more Union institutions establishing an activity financed from the Union budget other than programmes;
- (b) "funding agreement" means agreements relating to Union programmes and activities under Protocol I on Programmes and activities in which the United Kingdom participates 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 the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council¹ ("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" means the Union or the European Atomic Energy Community, or both, as the context may require;
- (e) "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;
- (f) "United Kingdom 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 United Kingdom.

¹ 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).

CHAPTER 1

PARTICIPATION OF THE UNITED KINGDOM IN UNION PROGRAMMES AND ACTIVITIES

SECTION 1

GENERAL CONDITIONS FOR PARTICIPATION IN UNION PROGRAMMES AND ACTIVITIES

ARTICLE 710

Establishment of the participation

1. The United Kingdom shall participate in and contribute to the Union programmes, activities, or in exceptional cases, the part of Union programmes or activities, which are open to its participation, and which shall be listed in a Protocol on Programmes and activities in which the United Kingdom participates ("Protocol I").
2. Protocol I shall be agreed between the Parties. It shall be adopted and may be amended by the Specialised Committee on Participation in Union Programmes.

3. Protocol I shall:

- (a) identify the Union programmes, activities, or in exceptional cases, the part of Union programmes or activities, in which the United Kingdom shall participate;
- (b) lay down the duration of participation, which shall refer to the period of time during which the United Kingdom and United Kingdom 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 United Kingdom and United Kingdom entities, including specific modalities for the implementation of the financial conditions as identified under Article 714, specific modalities of the correction mechanism as identified under Article 716, 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 United Kingdom's contribution to a Union programme implemented through a financial instrument or a budgetary guarantee and, where appropriate, specific modalities referred to in Article 717.

ARTICLE 711

Compliance with programme rules

1. The United Kingdom shall participate in the Union programmes, activities or parts thereof listed in Protocol I under the terms and conditions established in this Agreement, 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 United Kingdom entities and any other eligibility conditions related to the United Kingdom, 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 United Kingdom 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, except in duly justified exceptional cases as provided for in the terms and conditions referred to in paragraph 1. Either party may bring to the attention of the Specialised Committee on Participation in Union Programmes the need for a discussion of duly justified exclusions.

ARTICLE 712

Conditions for participation

1. The United Kingdom's participation in a Union programme or activity, or parts thereof as referred to in Article 708 shall be conditional upon the United Kingdom:
 - (a) making every effort, within the framework of its domestic laws, to facilitate the entry and residence of persons involved in the implementation of these programmes and activities, or parts thereof, including students, researchers, trainees or volunteers;
 - (b) ensuring, as far as it is under the control of the United Kingdom authorities, that the conditions for the persons referred to in point (a) to access services in the United Kingdom that are directly related to the implementation of the programmes or activities are the same as for United Kingdom nationals, including as regards any fees;
 - (c) as regards participation involving exchange of or access to classified or sensitive non-classified information, having in place the appropriate agreements in accordance with Article 777.

2. In relation to the United Kingdom's participation in a Union programme or activity, or parts thereof as referred to in Article 708 the Union and its Member States shall:
 - (a) make every effort, within the framework of Union or the Member States legislation, to facilitate the entry and residence of United Kingdom nationals involved in the implementation of these programmes and activities, or parts thereof, including students, researchers, trainees or volunteers;
 - (b) ensure, as far as it is under the control of the Union and Member States' authorities, that the conditions for the United Kingdom nationals referred to in point (a) to access services in the Union that are directly related to the implementation of the programmes or activities are the same as for Union citizens, including as regards any fees.
3. Protocol I may lay down further specific conditions referring to this Article, which are necessary for the participation of the United Kingdom in a Union programme or activity, or parts thereof.
4. This Article is without prejudice to Article 711.
5. This Article and Article 718, are also without prejudice to any arrangements made between the United Kingdom and Ireland concerning the Common Travel Area.

ARTICLE 713

Participation of the United Kingdom in the governance of programmes or activities

1. Representatives or experts of the United Kingdom, or experts designated by the United Kingdom 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 United Kingdom is 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 United Kingdom participates in accordance with Article 708 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 United Kingdom, or experts designated by the United Kingdom shall not be present at the time of voting. The United Kingdom 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 United Kingdom nationals.

3. Subject to the conditions of paragraph 1, participation of the United Kingdom's 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 United Kingdom is not participating, and the reimbursement of travel and subsistence costs.

4. Protocol I may define further modalities for the participation of experts, as well as the participation of the United Kingdom in governing boards and structures created for the purposes of implementing Union programmes or activities defined in that Protocol.

SECTION 2

RULES FOR FINANCING THE PARTICIPATION IN UNION PROGRAMMES AND ACTIVITIES

ARTICLE 714

Financial conditions

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

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 Article 733, the participation fee shall be 4 % of the annual operational contribution and shall not be subject to retrospective adjustments except in relation to suspension under point (b) of Article 718(7) and termination under point (c) of Article 720(6). As of 2028 the level of the participation fee may be adjusted by the Specialised Committee on Participation in Union Programmes.
5. The operational contribution shall cover operational and support expenditure 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, as defined in Protocol I.

6. The operational contribution shall be based on a contribution key defined as the ratio of the Gross Domestic Product (GDP) of the United Kingdom at market prices to the GDP of the Union at market prices. The GDPs at market prices to be applied shall be the latest available as of 1 January of the year in which the annual payment is made as provided by Statistical Office of the European Union (EUROSTAT), as soon as the arrangement referred to in Article 730 applies and according to the rules of this arrangement. Before this arrangement applies, the GDP of the United Kingdom shall be the one established on the basis of data provided by the Organisation for Economic Co-operation and Development (OECD).
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 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 United Kingdom participates.
8. 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.

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 to the sum of:

- (a) the amount of budgetary commitments made on commitment appropriations authorised in year N under the European 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 as defined in Protocol I and that were available at the end of year N.

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 three 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 United Kingdom contribution by the amount obtained by applying the contribution key 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.

If external assigned revenue appropriations that do not result from financial contributions to Union programmes and activities from other donors as defined in Protocol I are cancelled, the contribution of the United Kingdom shall be reduced by the amount obtained by applying the contribution key of year N to the amount cancelled.

In year N+2 or in subsequent years, after having made the adjustments referred to in the second, third and fourth subparagraphs, the contribution of the United Kingdom for year N shall also be reduced by an amount obtained by multiplying the contribution of the United Kingdom for year N and the ratio of:

- (a) the legal commitments of year N, funded under any commitment appropriations available in year N, and resulting from competitive award procedures,
 - (i) from which the United Kingdom and the United Kingdom entities have been excluded; or
 - (ii) for which the Specialised Committee on Participation in Union Programmes has decided, in accordance with the procedure established in Article 715 that there has been a quasi-exclusion of United Kingdom or United Kingdom entities; or
 - (iii) for which the deadline for submission of applications has expired during the suspension referred to in Article 718 or after termination referred to in Article 720 has taken effect; or
 - (iv) for which the participation of the United Kingdom and United Kingdom entities has been limited in accordance with Article 722(3); and
- (b) the total amount of legal commitments funded under any commitment appropriations of year N.

This amount of legal commitments shall be calculated by taking all budgetary commitments made in year N and deducting the decommitments that have been made on these commitments in year N+1.

9. Upon request, the Union shall provide the United Kingdom 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 United Kingdom participates. That information shall be provided having due regard to the Union's and United Kingdom's confidentiality and data protection rules and is without prejudice to the information which the United Kingdom is entitled to receive under Chapter 2.

10. All contributions of the United Kingdom or payments from the Union, and the calculation of amounts due or to be received, shall be made in euros.

11. Subject to paragraph 5 and the second subparagraph of paragraph 8 of this Article, the detailed provisions for the implementation of this Article are set out in Annex 47. Annex 47 may be amended by the Specialised Committee on Participation in Union Programmes.

ARTICLE 715

Quasi exclusion from competitive grant award procedure

1. When the United Kingdom considers that certain conditions laid down in a competitive grant award procedure amount to a quasi-exclusion of United Kingdom entities, the United Kingdom shall notify the Specialised Committee on Participation in Union Programmes before the deadline for submission of applications in the procedure concerned and shall provide justification.
2. Within three months of the deadline for submission of applications in the award procedure concerned, the Specialised Committee on Participation in Union Programmes shall examine the notification referred to in the paragraph 1 provided that the participation rate of United Kingdom entities in the award procedure concerned is at least 25 % lower compared to:
 - (a) the average participation rate of United Kingdom entities in similar competitive award procedures not containing such a condition and launched within the three years preceding the notification; or,
 - (b) in the absence of similar competitive award procedures, the average participation rate of United Kingdom entities in all competitive award procedures launched under the programme, or the preceding programme, as relevant, within the 3 years preceding the notification.

3. The Specialised Committee on Participation in Union Programmes shall by the end of the period referred to in paragraph 2, decide whether there has been a quasi-exclusion of the United Kingdom entities from the award procedure concerned in light of the justification provided by the United Kingdom pursuant to paragraph 1 and the effective participation rate in the award procedure concerned.

4. For the purposes of paragraphs 2 and 3, the participation rate shall be the ratio of the number of applications submitted by United Kingdom entities to the total number of applications submitted within the same award procedure.

ARTICLE 716

Programmes 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 in Protocol I. The application of that automatic correction mechanism may be limited to parts of the programme or activity specified in Protocol I, 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 Protocol I.

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 United Kingdom or United Kingdom entities financed from commitment appropriations of the year in question and the corresponding operational contribution paid by the United Kingdom as adjusted pursuant to Article 714(8), excluding support expenditure, covering the same period if that amount is positive.

3. Any amount referred to in paragraph 2 of this Article, which for each of two consecutive years exceeds 8 % of the corresponding contribution of the United Kingdom to the programme as adjusted pursuant to Article 714(8) shall be due by the United Kingdom as an additional contribution under the automatic correction mechanism for each of those two years.

4. 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 Protocol I.

ARTICLE 717

Financing in relation to programmes implemented through financial instruments or budgetary guarantees

1. Where the United Kingdom participates in a Union programme, activity, or parts thereof that is implemented through a financial instrument or budgetary guarantee, the contribution of the United Kingdom to programmes implemented through financial instruments or budgetary guarantees under the Union budget implemented under Title X of the Financial Regulation applicable to the general budget of the Union shall be made in the form of cash. The amount contributed in cash shall increase the Union budgetary guarantee or the financial envelope of the financial instrument.

2. Where the United Kingdom participates in a programme referred to in paragraph 1 of this Article that is implemented by the European Investment Bank Group, if the European Investment Bank Group needs to cover losses that are not covered by the guarantee provided by the Union budget, the United Kingdom shall pay to the European Investment Bank Group a percentage of those losses equal to the ratio of the Gross Domestic Product at market prices of the United Kingdom to the sum of the Gross Domestic Product at market prices of the Member States, the United Kingdom and any other third country participating in that programme. The Gross Domestic Product at market prices to be applied shall be the latest available as of 1 January of the year in which the payment is due as provided by EUROSTAT, as soon as the arrangement referred to in Article 730 applies and according to the rules of this arrangement. Before this arrangement applies, the GDP of the United Kingdom shall be the one established on the basis of data provided by the OECD.

3. Where appropriate, modalities for the implementation of this Article, in particular ensuring that the United Kingdom receives its share of unused contributions to budgetary guarantees and financial instruments, shall be specified further in Protocol I.

SECTION 3

SUSPENSION AND TERMINATION OF THE PARTICIPATION IN UNION PROGRAMMES

ARTICLE 718

Suspension of the participation of the United Kingdom in a Union programme by the Union

1. The Union may unilaterally suspend the application of Protocol I, in relation to one or more Union programmes, activities, or exceptionally parts thereof in accordance with this Article, if the United Kingdom does not pay its financial contribution in accordance with Section 2 of this Chapter or if the United Kingdom introduces significant changes to one of the following conditions that existed when the United Kingdom participation in a programme, an activity or exceptionally part thereof was agreed and included in Protocol I, and if such changes have a significant impact on their implementation:

- (a) the conditions for entry and residence in the United Kingdom of the persons that are involved in the implementation of these programmes and activities, or parts thereof, including students, researchers, trainees or volunteers are changed. This shall apply, in particular, if the United Kingdom introduces a change in its domestic laws for the conditions for entry and residence in the United Kingdom for these persons, which discriminates between Member States;

- (b) there is a change in financial charges, including fees, that apply to persons referred in point (a) in order to perform the activities that they have to perform in order to implement the programme;
- (c) the conditions referred to in Article 712(3) are changed.

2. The Union shall notify the Specialised Committee on Participation in Union Programmes of its intention to suspend the participation of the United Kingdom in the programme or activity concerned. The Union shall identify the scope of the suspension and provide due justification. Unless the Union withdraws its notification, the suspension shall take effect 45 days following the date of notification by the Union. The date on which the suspension takes effect shall constitute the suspension reference date for the purposes of this Article.

Prior to notification and suspension, and during the suspension period, the Specialised Committee on Participation in Union Programmes may discuss appropriate measures for avoiding or lifting the suspension. In case the Specialised Committee on Participation in Union Programmes finds an agreement for avoiding the suspension within the period referred to in the first subparagraph, the suspension shall not take effect.

In any case, the Specialised Committee on Participation in Union Programmes shall meet during the period of 45 days to discuss the matter.

3. As of the suspension reference date the United Kingdom shall not be treated as a country participating in the Union programme, activity, or part thereof concerned by the suspension and in particular, the United Kingdom or United Kingdom entities shall no longer be eligible under the conditions laid down in Article 711 and Protocol I, with regard to Union award procedures which have not been completed yet on that date. An award procedure shall be considered completed when legal commitments have been entered into as a result of that procedure.

4. The suspension shall not affect legal commitments entered into before the suspension reference date. This Agreement shall continue to apply to such legal commitments.

5. The United Kingdom shall notify the Union as soon as it considers that compliance with the conditions for participation has been restored, and shall provide the Union with any relevant evidence to that effect.

Within 30 days from that notification the Union shall assess the matter and may, for that purpose, request the United Kingdom to present additional evidence. The time needed to provide such additional evidence shall not be taken into account in the overall period for assessment.

Where the Union has found that compliance with the conditions for participation is restored, it shall notify without undue delay the Specialised Committee on Participation in Union Programmes that the suspension is lifted. The lifting shall take effect on the day following the date of notification.

Where the Union has found that compliance with the conditions for participation is not restored, the suspension shall remain in force.

6. The United Kingdom shall be treated again as a country participating in the Union programme or activity concerned, and in particular United Kingdom and United Kingdom entities shall be again eligible under the conditions laid down in Article 711 and Protocol I, with regard to Union award procedures under that Union programme or activity which were launched after the date on which the lifting of the suspension takes effect, or which were launched before that date, and for which the deadline for the submission of applications has not expired.

7. In case of the United Kingdom participation in a programme, activity, or part thereof being suspended, the financial contribution of the United Kingdom that is due during the period of suspension shall be established as follows:

- (a) the Union shall recalculate the operational contribution using the procedure described in point (a)(iii) of the fifth subparagraph of Article 714(8);
- (b) the participation fee shall be adjusted in line with the adjustment of the operational contribution.

ARTICLE 719

Termination of the participation of the United Kingdom in a Union programme by the Union

1. If, by one year after the reference date referred to in Article 718(2) the Union has not lifted the suspension under Article 718, the Union shall either:
 - (a) reassess the conditions under which it may offer to allow the United Kingdom to continue participating in the Union programmes, activities or parts thereof concerned and shall propose those conditions to the Specialised Committee on Participation in Union Programmes within 45 days from expiry of the one year suspension period with a view to modifying Protocol I. In the absence of an agreement on those measures by the Specialised Committee within a further period of 45 days, termination shall take effect as referred to in point (b) of this paragraph; or
 - (b) terminate unilaterally the application of Protocol I, in relation to the Union programmes, activities or parts thereof concerned, in accordance with this Article, taking into account the impact of the change referred to in Article 718 on the implementation of the programme or activity or exceptionally parts thereof, or the amount of the unpaid contribution.

2. The Union shall notify the Specialised Committee on Participation in Union Programmes of its intention to terminate the participation of the United Kingdom in one or more Union programmes or activities pursuant to point (b) of paragraph 1. The Union shall identify the scope of the termination and provide due justification. Unless the Union withdraws its notification, the termination shall take effect 45 days following the date of notification by the Union. The date on which the termination takes effect shall constitute the termination reference date for the purposes of this Article.

3. As of the termination reference date the United Kingdom shall not be treated as a country participating in the Union programme or activity concerned by the termination, and in particular the United Kingdom or United Kingdom entities shall no longer be eligible under the conditions laid down in Article 711 and in Protocol I, with regard to Union award procedures which have not been completed yet as of that date. An award procedure shall be considered to have been completed if legal commitments have been entered into as a result of that procedure.

4. The termination shall not affect legal commitments entered into before the suspension reference date referred to in Article 718(2). This Agreement shall continue to apply to such legal commitments.

5. Where the application of Protocol I, or a part thereof, is terminated in respect of the programmes or activities or exceptionally parts thereof concerned:
- (a) the operational contribution covering support expenditure related to legal commitments already entered into shall continue to be due until the completion of those legal commitments or the end of the multiannual financial framework under which the legal commitment has been financed;
 - (b) no contribution except the one referred to in point (a) shall be made in the following years.

ARTICLE 720

Termination of the participation in a programme or activity in the case of substantial modification to Union programmes

1. The United Kingdom may unilaterally terminate its participation in a Union programme or activity or part thereof referred to in Protocol I where:
- (a) the basic act of that Union programme or activity is amended to an extent that the conditions for participation of the United Kingdom or of United Kingdom entities in that Union programme or activity have been substantially modified, in particular, as a result of a change of the objectives of the programme or activity and of the corresponding actions; or

- (b) the total amount of commitment appropriations as referred to in Article 714 is increased by more than 15 % compared with the initial financial envelope of that programme or activity or part thereof in which the United Kingdom participates and either the corresponding ceiling of the multiannual financial framework has been increased or the amount of external revenue referred to in Article 714(5) for the whole period of participation has been increased; or
- (c) the United Kingdom or United Kingdom entities are excluded from participation in part of a programme or activity on duly justified grounds, and that exclusion concerns commitment appropriations exceeding 10 % of the commitment appropriations in the Union budget definitively adopted for a year N for that programme or activity.

2. To this effect, the United Kingdom shall notify its intention to terminate Protocol I in relation to the Union programme or activity concerned, to the Specialised Committee on Participation in Union Programmes at the latest 60 days after the publication of the amendment or of the adopted annual budget or an amendment to it in the *Official Journal of the European Union*. The United Kingdom shall explain the reasons for which the United Kingdom considers the amendment to substantially alter the conditions of participation. The Specialised Committee on Participation in Union Programmes shall meet within 45 days of receiving the notification to discuss the matter.

3. Unless the United Kingdom withdraws its notification, the termination shall take effect 45 days following the date of notification by the United Kingdom. The date on which the termination takes effect shall constitute the reference date for the purposes of this Article.

4. As of the reference date the United Kingdom shall not be treated as a country participating in the Union programme or activity concerned by the termination, and in particular the United Kingdom or United Kingdom entities shall no longer be eligible under the conditions laid down in Article 711 and in Protocol I, with regard to Union award procedures which have not been completed yet as of that date. An award procedure shall be considered to have been completed if legal commitments have been entered into as a result of that procedure.

5. The termination shall not affect legal commitments entered into before the reference date. This Agreement shall continue to apply to such legal commitments.

6. In case of termination under this Article in respect of the programmes or activities concerned:

- (a) the operational contribution covering support expenditure related to legal commitments already entered into shall continue to be due until the completion of those legal commitments or the end of the multiannual financial framework under which the legal commitment has been financed;
- (b) the Union shall recalculate the operational contribution of the year where termination occurs using the procedure described in point (a)(iii) of the fifth subparagraph of Article 714(8). No contribution except the one referred to in point (a) of this Article shall be made in the following years;
- (c) the participation fee shall be adjusted in line with the adjustment of the operational contribution.

SECTION 4

REVIEW OF PERFORMANCE AND FINANCIAL INCREASES

ARTICLE 721

Performance review

1. A performance review procedure shall apply in accordance with the conditions laid down in this Article in relation to parts of the Union programme or activity to which the correction mechanism referred to in Article 716 applies.
2. The United Kingdom may request the Specialised Committee on Participation in Union Programmes to start the performance review procedure where the amount calculated in accordance with the method laid down in Article 716(2) is negative, and where that amount is higher than 12 % of the corresponding contributions of the United Kingdom to the programme or activity as adjusted pursuant to Article 714(8).
3. The Specialised Committee on Participation in Union Programmes, within a period of three months from the date of the request referred to in paragraph 2, shall analyse the relevant performance-related data and adopt a report proposing appropriate measures to address performance related issues.

The measures referred to in the first subparagraph shall be applied for a period of twelve months after the adoption of the report. Following the application of the measures, performance data over the period in question shall be used to calculate the difference between the initial amounts due under the legal commitments actually entered into with the United Kingdom or United Kingdom entities during that calendar year and the corresponding operational contribution paid by the United Kingdom for the same year.

If the difference referred to in the second subparagraph is negative and exceeds 16 % of the corresponding operational contribution, the United Kingdom may:

- (a) notify its intention to terminate its participation in the Union programme or part of a programme concerned by giving notice 45 days before the intended day of termination, and may terminate its participation in accordance with Article 720(3) to (6); or
- (b) request the Specialised Committee on Participation in Union Programmes to adopt further measures to address underperformance, including by making adaptations to the participation of the United Kingdom in the Union programme concerned and adjusting future financial contributions of the United Kingdom in respect of that programme.

ARTICLE 722

Financial increases review

1. The United Kingdom may notify the Specialised Committee on Participation in Union Programmes that it objects to the amount of its contribution to a Union programme or activity if the total amount of commitment appropriations as referred to in Article 714 is increased by more than 5 % compared with the initial financial envelope for that Union programme or activity and either the corresponding ceiling has been increased or the amount of external revenue referred to in Article 714(5) for the whole period of participation has been increased.
2. The notification referred to in paragraph 1 of this Article shall be made within 60 days as of the publication date of the adopted annual budget or an amendment to it in the *Official Journal of the European Union*. The notification shall be without prejudice to the obligation of the United Kingdom to pay its contribution and to the application of the adjustment mechanism referred to in Article 714(8).

3. The Specialised Committee on Participation in Union Programmes shall prepare a report, propose and decide on the adoption of appropriate measures within three months from the date of the notification referred to in paragraph 2 of this Article. Those measures may include limiting the participation of the United Kingdom and United Kingdom entities to certain types of actions or award procedures or, where appropriate, a modification of Protocol I. The limitation of the United Kingdom's participation will be treated as an exclusion for the purposes of the adjustment mechanism referred to in Article 714(8).

4. Where the conditions referred to in point (b) of Article 720(1) are fulfilled, the United Kingdom may terminate its participation in a Union programme or activity referred to in Protocol I in accordance with Article 720(2) to (6).

CHAPTER 2

SOUND FINANCIAL MANAGEMENT

ARTICLE 723

Scope

This Chapter shall apply in relation to the Union programmes, activities and services under Union programmes referred to in Protocol I and Protocol II on access of the United Kingdom to services established under certain Union programmes and activities in which the United Kingdom does not participate (Protocol II).

SECTION 1

PROTECTION OF FINANCIAL INTERESTS AND RECOVERY

ARTICLE 724

Conduct of activity for the purposes of sound financial management

For the purposes of the application of this Chapter, the authorities of the United Kingdom and of the Union referred to in this Chapter shall cooperate closely in accordance with their respective laws and regulations.

When exercising their duties in the territory of the United Kingdom, the agents and investigative bodies of the Union shall act in a manner consistent with United Kingdom law.

ARTICLE 725

Reviews and audits

1. The Union shall have the right to conduct as provided in relevant funding agreements or contracts and in accordance with the applicable acts of one or more Union institutions, technical, scientific, financial, or other types of reviews and audits on the premises of any natural person residing in or legal entity established in the United Kingdom and receiving Union funding, as well as any third party involved in the implementation of Union funding residing or established in the United Kingdom. Such reviews 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 the agents of the European Commission and the European Court of Auditors, as well as other persons mandated by the European Commission, shall have appropriate access to sites, works and documents (in electronic versions, paper versions, or both) and to all the information required in order to carry out such reviews and audits, as referred to in paragraph 1. Such access shall include the right to obtain physical or electronic copies of, and extracts from, any document or the contents of any data medium held by audited natural or legal persons, or by the audited third party.
3. The United Kingdom shall not prevent or raise any obstacle to the right of the agents and other persons referred to in paragraph 2 to enter the United Kingdom and to access the premises of the audited persons, in the exercise of their duties referred to in this Article.

4. Notwithstanding the suspension or termination of the United Kingdom's participation in a programme or activity, the suspension of part or all of the provisions of this Part and/or Protocol I or the termination of this Agreement, the reviews and audits may be carried out also after the date on which the relevant suspension or termination takes effect, on the terms laid down in the applicable acts of one or more Union institutions and as provided in the relevant funding agreements or contracts in relation to any legal commitment implementing the Union budget entered into by the Union before the date on which the relevant suspension or termination takes effect.

ARTICLE 726

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, in the territory of the United Kingdom. The European Commission and OLAF shall act in accordance with the Union acts governing those checks, inspections and investigations.
2. The competent United Kingdom authorities shall inform the European Commission or OLAF within a reasonable period 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 United Kingdom and that receives Union funding under a funding agreement or a contract, as well as on the premises of any third party involved in the implementation of such Union funding residing or established in the United Kingdom. Such checks and inspections shall be prepared and conducted by the European Commission or OLAF in close collaboration with the competent United Kingdom authority designated by the United Kingdom. The designated authority shall be notified within a reasonable period before the checks and inspections of the object, purpose and legal basis of those checks and inspections, to enable it to provide assistance. To that end, the officials of the competent United Kingdom authorities may participate in the on-the-spot checks and inspections.

4. The agents of the European Commission and OLAF shall have access to all the information and documentation (in electronic versions, paper versions, or both) relating to the operations referred to in paragraph 3, which are required for the proper conduct of the on-the-spot checks and inspections. In particular, the agents of the European Commission and OLAF may copy relevant documents.

5. The European Commission or OLAF and the competent United Kingdom authorities shall decide on a case-by-case basis whether to conduct on-the-spot checks and inspections jointly, including where both parties are competent to conduct investigations.

6. Where the person, entity or another third party who is subject to an on-the-spot check or inspection resists an on-the-spot check or inspection, the United Kingdom authorities, acting in accordance with national rules and regulations, shall assist the European Commission or OLAF, to enable them to fulfil their duties in carrying out the on-the-spot check or inspection. Such assistance shall include taking the appropriate precautionary measures under national law, including measures to safeguard evidence.

7. The European Commission or OLAF shall inform the competent United Kingdom authorities of the result of such checks and inspections. In particular the European Commission or OLAF shall report as soon as possible to the competent United Kingdom 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.

8. Without prejudice to application of United Kingdom law, the European Commission may impose administrative measures and penalties on legal or natural persons participating in the implementation of a programme or activity in accordance with Union legislation.

9. For the purposes of the proper implementation of this Article, the European Commission or OLAF and the United Kingdom competent authorities shall regularly exchange information and, at the request of one of the parties to this Agreement, consult each other, unless prohibited under Union legislation or under United Kingdom law.

10. In order to facilitate effective cooperation and the exchange of information with OLAF the United Kingdom shall designate a contact point.

11. The exchange of information between the European Commission or OLAF and the United Kingdom competent authorities shall comply with applicable confidentiality requirements. Personal data included in the exchange of information shall be protected in accordance with applicable rules.

12. Without prejudice to the applicability of Article 634, where any United Kingdom national, or natural persons residing in the United Kingdom, or legal entities established in the United Kingdom receive Union funding under Union programmes and activities listed in Protocol I, directly or indirectly, including in connection with any third party involved in the implementation of such Union funding, the United Kingdom authorities shall cooperate with the Union authorities or authorities of the Member States of the Union responsible for investigating, prosecuting and bringing to judgement the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the Union in relation to such funding, in accordance with the applicable legislation and international instruments, to allow them to fulfil their duties.

ARTICLE 727

Amendments to Articles 708, 723, 725 and 726

The Specialised Committee on Participation in Union Programmes may amend Articles 725 and 726, in particular to take account of changes of acts of one or more Union institutions.

The Specialised Committee on Participation in Union Programmes may amend Article 708 and Article 723 to extend the application of this Chapter to other Union programmes, activities and services.

ARTICLE 728

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 United Kingdom. The order for its 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 United Kingdom. The United Kingdom shall make known its designated national authority to the Commission and the Court of Justice of the European Union. In accordance with Article 729, the European Commission shall be entitled to notify such enforceable decisions directly to persons residing and legal entities established in the United Kingdom. The enforcement of those decisions shall take place in accordance with United Kingdom law.
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 or parts thereof under Protocol I shall be enforceable in the United Kingdom in the same manner as European Commission decisions, as 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 decisions of the Commission referred to in paragraph 1 and to suspend the enforcement of such decisions. However, the Courts of the United Kingdom shall have jurisdiction over complaints alleging that enforcement is being carried out in an irregular manner.

SECTION 2

OTHER RULES FOR THE IMPLEMENTATION OF UNION PROGRAMMES

ARTICLE 729

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 United Kingdom or legal entity established in the United Kingdom receiving Union funding, as well as with any third party involved in the implementation of Union funding that resides or is established in the United Kingdom. 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 or on the basis of the contracts or funding agreements concluded to implement that programme or activity.

ARTICLE 730

Statistical cooperation

EUROSTAT and the United Kingdom Statistics Authority may establish an arrangement that enables cooperation on relevant statistical matters and includes that EUROSTAT, with the agreement of the United Kingdom Statistics Authority, provides statistical data on the United Kingdom for the purposes of this Part, including, in particular, data on the GDP of the United Kingdom.

CHAPTER 3

ACCESS OF THE UNITED KINGDOM TO SERVICES UNDER UNION PROGRAMMES

ARTICLE 731

Rules on service access

1. Where the United Kingdom does not participate in a Union programme or activity in accordance with Chapter 1, it may nevertheless have access to services provided under Union programmes and activities under the terms and conditions established in this Agreement, the basic acts and any other rules pertaining to the implementation of Union programmes and activities.

2. Protocol II shall, where appropriate:
 - (a) identify the services under Union programmes and activities, to which the United Kingdom and United Kingdom entities shall have access;
 - (b) lay down specific conditions for the access by the United Kingdom and United Kingdom entities. Those conditions shall comply with the conditions laid down in this Agreement and in the basic acts;
 - (c) where applicable, specify the United Kingdom's financial or in-kind contribution with respect to a service provided under such Union programmes and activities.
3. Protocol II shall be adopted and may be amended by the Specialised Committee on Participation in Union Programmes.
4. The United Kingdom and public and private spacecraft owners and operators operating in or from the United Kingdom shall have access to the services provided under Article 5(1) of Decision No 541/2014/EU of the European Parliament and of the Council¹ in accordance with Article 5(2) of that Decision until provisions on similar access are included in Protocol II or until 31 December 2021.

¹ Decision No 541/2014/EU of the European Parliament and of the Council of 16 April 2014 establishing a Framework for Space Surveillance and Tracking Support (OJ EU L 158, 27.5.2014, p. 227).

CHAPTER 4

REVIEWS

ARTICLE 732

Review clause

Four years after Protocols I and II become applicable, the Specialised Committee on Participation in Union Programmes shall review the implementation thereof on the basis of the data concerning the participation of United Kingdom entities in indirect and direct actions under the programme, parts of the programme, activities and services covered under Protocols I and II.

Following a request by either Party, the Specialised Committee on Participation in Union Programmes shall discuss changes or proposed changes affecting the terms of the United Kingdom participation in any of the programmes or parts of programmes, activities and services listed in Protocols I and II, and, if necessary, may propose appropriate measures within the scope of this Agreement.

CHAPTER 5

PARTICIPATION FEE IN THE YEARS 2021 TO 2026

ARTICLE 733

Participation fee in the years 2021 to 2026

The participation fee referred to in Article 714(4) shall have the following value in the years 2021 to 2026:

- in 2021: 0,5 %;
- in 2022: 1 %;
- in 2023: 1,5 %;
- in 2024: 2 %;
- in 2025: 2,5 %;
- in 2026: 3 %.