



EUROPEAN
COMMISSION

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ANNEX 9

ANNEX

to the

Proposal for a Council Decision

on the signing, on behalf of the European Union, of a broad package of agreements to consolidate, deepen and expand the bilateral relations with the Swiss Confederation, and on the provisional application of the Agreement on the terms and conditions for the participation of the Swiss Confederation in the European Union Agency for the Space Programme

AGREEMENT
BETWEEN THE EUROPEAN UNION
AND THE SWISS CONFEDERATION
ON THE TERMS AND CONDITIONS
FOR THE PARTICIPATION OF THE SWISS CONFEDERATION
IN THE EUROPEAN UNION AGENCY FOR THE SPACE PROGRAMME

THE EUROPEAN UNION, hereinafter referred to as the "Union", of the one part,

and

THE SWISS CONFEDERATION, hereinafter referred to as "Switzerland", of the other part,

hereinafter referred to as the "Contracting Parties",

CONSIDERING Regulation (EU) 2021/696 of the European Parliament and of the Council¹ establishing the Union Space Programme and the European Union Agency for the Space Programme (hereinafter referred to as the "Regulation"),

CONSIDERING that pursuant to Article 98 of the Regulation, the European Union Agency for the Space Programme (hereinafter referred to as the "Agency") should be open to the participation of third countries and international organisations and that such participation and the conditions therefore should be established in an agreement concluded to that effect with the European Union,

¹ Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (OJ L 170, 12.5.2021, p. 69, ELI: <http://data.europa.eu/eli/reg/2021/696/oj>).

RECOGNISING that Switzerland participates and contributes financially to the European Global Navigation Satellite System (hereinafter referred to as "GNSS") programmes pursuant to the Cooperation Agreement between the European Union and its Member States, of the one part, and the Swiss Confederation, of the other, on the European Satellite Navigation Programmes, done at Brussels on 18 December 2013 (hereinafter referred to as the "Cooperation Agreement") that applies provisionally as of 1 January 2014,

RECALLING that Article 16 of the Cooperation Agreement states that Switzerland should have the right to participate in the Agency under the conditions to be laid down in an Agreement between the Union and Switzerland,

RECOGNISING that the Union and Switzerland have concluded an agreement on the security procedures for the exchange of classified information, done at Brussels on 28 April 2008,

CONSIDERING Switzerland's request to participate in the work of the Agency,

CONSIDERING the common interest in the participation of Switzerland in the work of the Agency,

DESIRING to reinforce the close cooperation between the Union and Switzerland in the area of satellite navigation,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Extent of participation

1. Switzerland shall participate in and contribute to the work of the Agency in relation to the Galileo and EGNOS components of the Union Space Programme, in accordance with the terms and conditions set out in the Regulation, in the Cooperation Agreement and in this Agreement.
2. Switzerland shall participate in and contribute to the work of the Agency in relation to other components of the Union Space Programme if the Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union programmes (hereinafter referred to as the "Agreement on Switzerland's participation in Union programmes"), done at ... on ... provides for the participation of Switzerland in those components of that programme and for the participation of Switzerland in the work of the Agency in relation to those components, in accordance with the terms and conditions set out in the Regulation, in the Agreement on the participation in Union programmes and in this Agreement.

ARTICLE 2

Administrative Board

One representative of Switzerland shall participate as an observer in the Administrative Board of the Agency without the right to vote and in accordance with the conditions laid down in the Rules of Procedure of the Administrative Board.

ARTICLE 3

Security Accreditation Board

One representative of Switzerland shall participate as an observer in the Security Accreditation Board, on matters directly relating to Switzerland only, without the right to vote and in accordance with the conditions laid down in the Rules of Procedure of the Security Accreditation Board. The matters directly relating to Switzerland shall be specified in the agenda drawn up by the Chairperson of the Security Accreditation Board prior to each meeting and communicated to Switzerland ahead of the meeting.

ARTICLE 4

Financial contribution

Switzerland shall contribute to the revenue of the Agency an annual sum calculated in accordance with the formula described in Annex I.

ARTICLE 5

Data protection

1. Switzerland shall apply its national rules concerning the protection of individuals with regard to the processing of personal data and concerning on the free movement of such data¹.
2. For the purpose of this Agreement, Regulation (EU) 2018/1725 of the European Parliament and of the Council² shall apply to the processing of personal data carried out by the Agency.
3. Switzerland shall respect the rules on confidentiality of documents held by the Agency, as set out in the Rules of Procedure of the Administrative Board and the Security Accreditation Board of the Agency

¹ In view of Commission Decision 2000/518/EC of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland, (OJ L 215, 25.8.2000, p. 1, ELI: <http://data.europa.eu/eli/dec/2000/518/oj>).

² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

ARTICLE 6

Legal status

Switzerland recognises the legal personality of the Agency. It shall enjoy in Switzerland the most extensive legal capacity accorded to legal persons under the law of Switzerland. It may, in particular, acquire or dispose of movable and immovable property and be party to legal proceedings.

ARTICLE 7

Liability

The liability of the Agency shall be governed by Article 97(1), (3) and (5) of the Regulation.

ARTICLE 8

Court of Justice of the European Union

Switzerland shall recognise the jurisdiction of the Court of Justice of the European Union over the Agency, as provided for in Article 97(2) and (4) of the Regulation.

ARTICLE 9

Privileges and immunities

Switzerland shall grant to the Agency and its staff, within the framework of their official functions for the Agency, the privileges and immunities provided for in Annex II, which are based on Articles 1 to 6, 10 to 15, and 17 and 18 of the Protocol (No 7) on the privileges and immunities of the European Union, annexed to the Treaty on the Functioning of the European Union (hereinafter referred to as "Protocol (No 7)"). References to the corresponding articles of that Protocol are indicated between brackets for information.

ARTICLE 10

Temporary staff and seconded officials and experts

By way of derogation from Article 12(2)(a) of the Conditions of Employment of Other Servants of the European Union, laid down in Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community¹, the Agency may, if it so decides, engage under contract Swiss nationals that enjoy their full rights as citizens. The Agency may accept the secondment of experts by Switzerland.

¹ OJ 45, 14.6.1962, p. 1385, including any subsequent amendments.

ARTICLE 11

Prevention of fraud

The provisions with regard to Article 95 of the Regulation relating to financial control by the Union in Switzerland concerning the participants in the activities of the Agency are set out in Annex III.

ARTICLE 12

Committee

1. A Committee, composed of representatives of the European Commission and Switzerland, shall monitor the proper implementation of this Agreement and ensure a continuous process of information provision and exchange of views in this respect. It shall meet upon request by either Switzerland or the European Commission. The Administrative Board of the Agency shall be informed about the work of the Committee.

The representatives of the European Commission may be accompanied by representatives of the Agency.

2. Information about planned Union legislation, which either directly affects or amends the Regulation or which is expected to have implications for the financial contribution laid down in Article 4 of this Agreement, shall be shared and an exchange of views thereon shall take place in the Committee.

3. In conformity with the respective internal procedures of the Contracting Parties, the Committee may adopt a decision amending the Annexes to this Agreement.

4. In the event of an amendment to Articles 1 to 6, Articles 10 to 15, or Articles 17 or 18 of the Protocol (No 7), the Committee shall amend Annex II accordingly.

ARTICLE 13

Settlement of disputes

Any dispute concerning the interpretation or application of this Agreement shall be settled through consultations within the Committee referred to in Article 12.

ARTICLE 14

Annexes

The Annexes to this Agreement shall form an integral part of this Agreement.

ARTICLE 15

Entry into force

1. This Agreement shall be ratified or approved by the Contracting Parties in accordance with their own procedures. The Contracting Parties shall notify each other of the completion of the internal procedures necessary to the entry into force of this Agreement.
2. This Agreement shall enter into force on the first day of the second month following the last notification regarding the following instruments:
 - (a) Institutional Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons;
 - (b) Amending Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons;
 - (c) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;
 - (d) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;
 - (e) State Aid Protocol to the Agreement between the European Community and the Swiss Confederation on air transport;

- (f) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;
- (g) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;
- (h) State Aid Protocol to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road;
- (i) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products;
- (j) Institutional Protocol to the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment;
- (k) Amending Protocol to the Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment;
- (l) Agreement between the European Union and the Swiss Confederation on Switzerland's regular financial contribution towards reducing economic and social disparities in the European Union;
- (m) Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation on Switzerland, of the other part, on the participation of the Swiss Confederation in Union programmes.

3. Notwithstanding paragraph 1, the Contracting Parties agree to apply this Agreement provisionally, in accordance with their respective internal procedures and legislation, as from 1 January 2026, if the date of signature of this Agreement is before 1 July 2026, or as from 1 January of the year following its signature, if the date of signature of this Agreement is after 30 June 2026.

ARTICLE 16

Revision

This Agreement may be amended at any time by mutual agreement of the Contracting Parties.

ARTICLE 17

Termination and validity

1. This Agreement shall be concluded for an unlimited period.
2. Each Contracting Party may, after consultations within the Committee referred to in Article 12, terminate this Agreement by notifying the other Contracting Party. The Agreement shall cease to apply six months after the date of receipt of such notification.

3. This Agreement shall cease to be in force on the date on which the Cooperation Agreement ceases to be in force, and a Protocol to the Agreement on Switzerland's participation in Union programmes does not provide for Switzerland's participation in the Agency.

Done at [...], on [...], in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, and Swedish languages, each of these texts being equally authentic.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto, have signed this Agreement.

(Signature Block, to the effect of, in all 24 EU languages: “For the European Union” and “For the Swiss Confederation“)

FINANCIAL CONTRIBUTION OF SWITZERLAND
TO THE EUROPEAN UNION AGENCY FOR THE SPACE PROGRAMME

1. The financial contribution of Switzerland to the revenue of the Agency for year N, as referred to in the Regulation, shall take the form of the sum of:
 - (a) an operational contribution; and
 - (b) a participation fee.

The operational contribution shall be based on a contribution key defined as the ratio of the gross domestic product (hereinafter referred to as "GDP") of Switzerland at market prices to the GDP of the Union at market prices. For that purpose, the figures for GDPs at market prices of the Contracting Parties shall be the latest such figures available as of 1 January of the year in which the annual payment is made, as provided by the Statistical Office of the European Union (EUROSTAT), with due regard to the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics, done at Luxembourg on 26 October 2004. If that Agreement ceases to apply, the GDP of Switzerland shall be the one established on the basis of data provided by the Organisation for Economic Co-operation and Development (OECD).

The operational contribution shall be calculated by applying the contribution key to the parts of the authorised Agency's budget relevant for Switzerland's participation, as referred to in the Regulation, for year N.

The annual participation fee shall be a percentage of the annual operational contribution as calculated in accordance with the previous subparagraph. The annual participation fee shall have the following values:

- in 2026: 2 %
- in 2027: 3 %
- in 2028 and subsequent years: 4 %.

As of 2028 the level of the participation fee may be adjusted by the Committee, in accordance with Article 12(3) of this Agreement.

2. The financial contribution shall be made in Euro.
3. The travel and subsistence expenses of representatives and experts from Switzerland in connection with their participation in meetings organised by the Agency in conjunction with the implementation of the Agency's works shall be reimbursed by the Agency on the same basis and in accordance with the procedures currently in force for experts from the Member States of the Union.

4. In accordance with this Agreement, the European Commission shall issue to Switzerland requests for funds corresponding to the Swiss contribution to the budget of the Agency. Switzerland shall pay its financial contribution no later than 45 days after receipt of the request for funds.
5. Any delay in the payment of the contribution of Switzerland shall give rise to the payment of default interest by Switzerland on the outstanding amount from the due date. The interest rate 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 day of the month in which the deadline falls, increased by 3,5 percentage points.

PRIVILEGES AND IMMUNITIES¹

ARTICLE 1

(corresponding to Article 1 of Protocol (No 7))

The premises and buildings of the Agency shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Agency shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice of the European Union.

ARTICLE 2

(corresponding to Article 2 of Protocol (No 7))

The archives of the Agency shall be inviolable.

¹ References to the corresponding articles of the Protocol are indicated between brackets for information.

ARTICLE 3

(corresponding to Articles 3 and 4 of Protocol (No 7))

1. The Agency, its assets, revenues and other property shall be exempt from all direct taxes.
2. Goods and services exported to the Agency for its official use from Switzerland or provided to the Agency in Switzerland shall not be subject to any indirect duties and taxes.
3. Exemption from VAT shall be granted if the actual purchase price of the goods and services mentioned in the invoice or corresponding document totals at least one hundred Swiss francs (inclusive of tax). The Agency shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for its official use; articles so imported shall not be disposed of, whether or not in return for payment, in Switzerland, except under conditions approved by the government of Switzerland.
4. The exemption from VAT, excise duty and any other indirect taxes shall be granted by way of remit on presentation to the goods or services supplier of the Swiss forms provided for the purpose.
5. No exemption shall be granted in respect of taxes and dues, which amount merely to charges for public utility services.

ARTICLE 4

(corresponding to Article 5 of Protocol (No 7))

For its official communications and the transmission of all its documents, the Agency shall enjoy in Switzerland the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the Agency shall not be subject to censorship.

ARTICLE 5

(corresponding to Article 6 of Protocol (No 7))

The *laissez-passer* of the Union issued to members and servants of the Agency shall be recognised as valid travel documents within the territory of Switzerland. Those *laissez-passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union (Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1385), including any subsequent amendments).

ARTICLE 6

(corresponding to Article 10 of Protocol (No 7))

Representatives of Member States of the Union taking part in the work of the Agency, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting in Switzerland, enjoy the customary privileges, immunities and facilities.

ARTICLE 7

(corresponding to Article 11 of Protocol (No 7))

In the territory of Switzerland and whatever their nationality, officials and other servants of the Agency shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Union and, on the other hand, to the jurisdiction of the Court of Justice of the European Union in disputes between the Union and its officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office;
- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;

- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;
- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in Switzerland, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of Switzerland;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of Switzerland.

ARTICLE 8

(corresponding to Article 12 of Protocol (No 7))

Officials and other servants of the Agency shall be liable to a tax for the benefit of the Union on salaries, wages and emoluments paid to them by the Agency, in accordance with the conditions and procedure laid down by Union law.

They shall be exempt from Swiss federal, cantonal and communal taxes on salaries, wages and emoluments paid by the Agency.

ARTICLE 9

(corresponding to Article 13 of Protocol (No 7))

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Switzerland and Member States of the Union, officials and other servants of the Agency who, solely by reason of the performance of their duties in the service of the Agency, establish their residence in the territory of Switzerland for tax purposes at the time of entering the service of the Agency, shall be considered, both in Switzerland and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a Member State of the Union. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the first paragraph and situated in Switzerland shall be exempt from death duties in Switzerland; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

ARTICLE 10

(corresponding to Article 14 of Protocol (No 7))

Union law shall lay down the scheme of social security benefits for officials and other servants of the Union.

Officials and other servants of the Agency shall therefore not be obliged to be members of the Swiss social security system provided they are already covered by the scheme of social security benefits for officials and other servants of the Union. Family members of members of staff of the Agency, forming part of their households, shall be covered by the scheme of social security benefits for officials and other servants of the Union provided that they are not employed by an employer other than the Agency and provided that they do not receive social security benefits from a Member State of the Union or from Switzerland.

ARTICLE 11

(corresponding to Article 15 of Protocol (No 7))

Union law shall determine the categories of officials and other servants of the Agency to whom the provisions of Article 7, Article 8 and Article 9 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to Switzerland.

ARTICLE 12

(corresponding to Article 17 of Protocol (No 7))

Privileges, immunities and facilities shall be accorded to officials and other servants of the Agency solely in the interests of the Agency.

The Agency shall be required to waive the immunity accorded to an official or other servant wherever that Agency considers that the waiver of such immunity is not contrary to the interests of the Agency.

ARTICLE 13

(corresponding to Article 18 of Protocol (No 7))

The Agency shall, for the purpose of applying this Annex, cooperate with the responsible authorities of Switzerland or of the Member States of the Union concerned.

FINANCIAL CONTROL
AS REGARDS SWISS PARTICIPANTS
IN ACTIVITIES OF THE AGENCY

ARTICLE 1

Direct communication

The Agency and the European Commission shall communicate directly with all persons or entities established in Switzerland and participating in activities of the Agency as contractors, as participants in Agency programmes, as recipients of payments from the Agency or from the Union budget, or as subcontractors. Such persons may send directly to the European Commission and to the Agency all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Agreement and of contracts or agreements concluded and any decisions taken pursuant to them.

ARTICLE 2

Audits

1. In accordance with Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council¹, with Commission Delegated Regulation (EU) 2019/715² and with the other instruments referred to in this Agreement, contracts or agreements concluded and decisions taken with beneficiaries established in Switzerland may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the beneficiaries and of their subcontractors by the Agency and European Commission officials or by other persons authorised by the Agency and the European Commission.
2. The Agency and European Commission officials and other persons mandated by the Agency and the European Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. That right of access shall be stated explicitly in the contracts or agreements concluded to implement the instruments referred to in this Agreement.
3. The European Court of Auditors shall have the same rights as the European Commission.

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, 26.9.2024, ELI: <http://data.europa.eu/eli/reg/2024/2509/oj>).

² Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1).

4. Audits may continue to take place for five years after the expiry of this Agreement or under the terms of the contracts or agreements concluded and the decisions taken.
5. The competent Swiss audit authority shall be informed in advance of audits conducted on Swiss territory. The provision of this information shall not be a legal condition for the carrying out of such audits.

ARTICLE 3

On-the-spot checks

1. Under this Agreement, the European Commission and the European Anti-Fraud Office (OLAF) shall be authorised to carry out on-the-spot checks and inspections on Swiss territory, under the terms and conditions set out in Council Regulation (Euratom, EC) No 2185/96¹.
2. On-the-spot checks and inspections shall be prepared and conducted by the European Commission in close cooperation with the competent Swiss audit authority or with other competent Swiss authorities appointed by the competent Swiss audit authority, which shall be notified in good time of the object, purpose and legal basis of those checks and inspections, in order that they can provide all requisite help. To that end, officials of the competent Swiss authorities may participate in the on-the-spot checks and inspections.

¹ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2, ELI: <http://data.europa.eu/eli/reg/1996/2185/oj>).

3. If the Swiss authorities concerned so wish, on-the-spot checks and inspections may be carried out jointly by the European Commission and those authorities.
4. Where participants in the programme resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give the European Commission inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.
5. The European Commission shall report as soon as possible to the competent Swiss audit authority any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event, the European Commission is required to inform the competent Swiss audit authority of the result of such checks and inspections.

ARTICLE 4

Information and consultation

1. For the purposes of the proper implementation of this Annex, the competent Swiss and Union authorities shall exchange information regularly and, at the request of one of the Contracting Parties, shall conduct consultations.
2. The competent Swiss authorities shall inform the Agency and the European Commission without delay of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the contracts or agreements concluded in application of the instruments referred to in this Agreement.

ARTICLE 5

Confidentiality

Information communicated or acquired in any form whatever pursuant to this Annex shall be covered by professional secrecy and protected in the same way as similar information is protected by Swiss law and by the corresponding provisions applicable to Union institutions. Such information shall not be communicated to persons other than those within the Union institutions concerned, in the Member States, or in Switzerland whose functions require them to know it, nor may it be used for purposes other than to ensure the effective protection of the financial interests of the Contracting Parties.

ARTICLE 6

Administrative measures and penalties

Without prejudice to the application of Swiss criminal law, the Agency or the European Commission may impose administrative measures and penalties in accordance with Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council and with Council Regulation (EC, Euratom) No 2988/95¹.

¹ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

ARTICLE 7

Recovery and enforcement

A decision taken by the Agency or the European Commission within the scope of this Agreement which imposes a pecuniary obligation on persons other than States shall be enforceable in Switzerland. The order for its enforcement shall be appended to such decision, without any formality other than a verification of the authenticity of that decision by the national authority designated for this purpose by the Government of Switzerland. Enforcement shall take place in accordance with Swiss law and Rules of Procedure. Those enforceable decisions shall be considered enforceable titles in the sense of the Federal Act on Debt Enforcement and Bankruptcy (DEBA), and not subject to review on the merits before Swiss courts. The Government of Switzerland shall make known its designated national authority for the purposes of this Article to the Agency, the European Commission and to the Court of Justice of the European Union.

Judgments given by the Court of Justice of the European Union pursuant to an arbitration clause shall be enforceable on the same terms.

The legality of an enforcement order shall be subject to control by the Court of Justice of the European Union. However, Swiss Courts shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.
