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UKTF (2020) 11 – Commission to EU 27

Subject: Internal EU27 preparatory discussions on the future relationship: "UK participation in Union programmes"

Origin: European Commission, Task Force for Relations with the United Kingdom

Remarks: These slides are for presentational and information purposes only and were presented to the Council Working Party (Article 50) on 20 January 2020. The contents are without prejudice to discussions on the future relationship.

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Internal preparatory discussions on
future relationship

UK Participation in Union Programmes

(MFF 2021-2027)

AD HOC WORKING PARTY ON ARTICLE 50 (*Seminar mode*)
20/01/2020

General introduction

If UK withdraws with agreement on 31 January 2020:

Transition period of 11 months for:

- 1. adoption of negotiating directives;**
- 2. conduct of negotiations;**
- 3. signature/conclusion and entry into force of future partnership by 1 January 2021**

=> *Complex and politically sensitive negotiations*

=> *Possibility of a "cliff edge" as of 1 January 2021*

Purpose of the seminar series

- Respect established EU principles and objectives:

- 1. European Council (Art. 50) guidelines on the framework for the future EU-UK relationship, 23 March 2018;**
- 2. Revised Political Declaration agreed with the UK government on 17 October 2019, setting out the framework for the future relationship between the EU and the UK.**

- Preparing the negotiating directives

- Take into account Member States' views

- Commission will present the recommendation after UK withdrawal

→ no surprises

→ allow for swift adoption

Council Guidelines 23 March 2018: §11

§11 of the European Council Guidelines of 23 March 2018

- In terms of socio-economic cooperation, the following could be envisaged:
 - [...] regarding certain Union programmes, e.g. in the fields of research and innovation and of education and culture, any participation of the UK should be subject to the relevant conditions for the participation of third countries to be established in the corresponding programmes

Political Declaration: §11

- §11 of the political declaration
- ..., the Parties will establish **general principles, terms and conditions for the UK participation in Union programmes**, subject to the **conditions set out in the corresponding Union instruments**, in areas such as **science and innovation, youth, culture and education, overseas development and external action, defence capabilities, civil protection and space**.
- These should include a fair and appropriate **financial contribution**, provisions allowing for **sound financial management** by both Parties, fair treatment of participants, and **management and consultation appropriate** to the nature of the cooperation between the Parties.

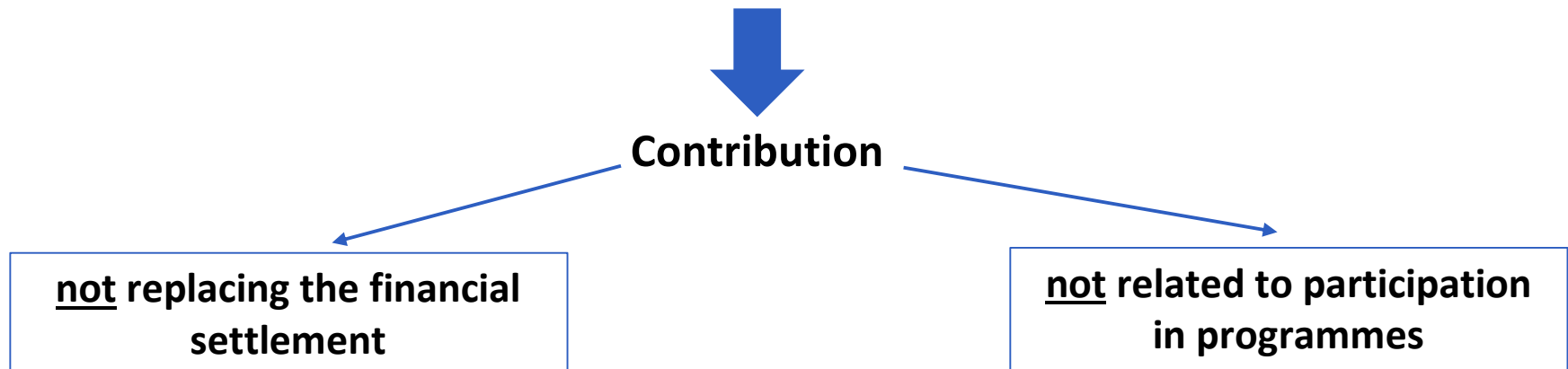
Political Declaration: §12 & §13

- §12: The Parties will also **explore** the participation of the United Kingdom to the European Research Infrastructure Consortia (**ERICs**), **subject to the conditions of the Union legal instruments and individual ERIC statutes**, and taking into account the level of **participation** of the United Kingdom in **Union programmes on science and innovation**
- §13: The Parties recall their shared commitment to delivering a future **PEACE PLUS programme** to sustain work on reconciliation and a shared future in Northern Ireland, maintaining the current funding proportions for the future programme.

Union programmes and poss. extension of the transition

(art 132 WA)

- 132(2)(a): The UK shall be considered as a third country for the implementation of the Union programmes and activities committed under the MFF applying as from the year 2021.
- 132(2)(d): For the period from 1 January 2021 to the end of the transition period, the United Kingdom shall make a contribution to the Union budget in accordance with 132(3).
- 132(3)(a): The Joint Committee shall establish the appropriate amount of the contribution of the UK to the Union budget for the period from 1/1/2021 to the end of transition, taking into account the status of the UK...



**Even in case of extension of transition,
for EU programmes, UK is a third country from 1/1/2021**

Horizontal provision on participation

- Where basic acts of the programmes allow the participation of a third country, the provision follows **the same template**
- The template distinguishes between
 - EEA/EFTA in accordance with EEA agreement
 - Acceding countries, candidate countries and potential candidates and countries covered by the European Neighbourhood Policy: with Protocol on general principles of participation in EU Programmes
 - Other third countries

Horizontal provision on participation: « other third countries »

«Association to the Programme of each of the third countries shall be in accordance with the conditions laid down in a specific agreement covering the participation of the third country to any Union programme...»

- «fair balance as regards the contributions and benefits»
- «calculation of financial contributions» (with administrative costs)
- «does not confer ...a decisional power»
- sound financial management and protection of financial interests.

MFF negotiating box

- The provisions for third countries have been “reserved” (square bracketed) in all basic acts.
- The Finnish presidency proposed in its **negotiating box**: “...The participation of other third countries [in Union programmes] should be subject to an agreement laying down the conditions applicable to the participation of the third country concerned in any programme. Such an agreement should ensure a fair balance as regards the contribution and benefits of the third country participating in the Union programmes, not confer any decision-making power on these programmes and contain rules for protecting the Union’s financial interests.”
- **The substance corresponds to Commission proposal.**
- In any case, starting negotiations with third countries would require a prior agreement on the MFF

Accessibility to third countries

Accessibility for third countries in the Commission proposal

Programme	COM (2018)	Article for third country	EEA	Acceding countries + ENP	Specific clause (non exhaustive)
Erasmus	367	16	Yes	Yes	The obligation to set up a national agency (NA)
Creative	366	8	Yes	Yes	Respect of 2010/13/EU for MEDIA and CROSS SECTORAL
Anti-fraud	386	4	Yes	Yes	
Right and values	383	7	Yes	Yes	
Justice	384	5	Yes	Yes	
LIFE	385	6	Yes	Yes	
Horizon	435	12	Yes	Yes	Capacity, possible exclusion, reciprocity, automatic correction
Euratom	437	5		Yes	Capacity, possible exclusion, reciprocity, automatic correction
InvestEU	439	5	Yes	Yes	Investments in associated or cross-border
CEF-Transport	438	5	Yes	Yes	No financial assistance except....
CEF-Energy	438	5	Yes	Yes	No financial assistance except....
CEF-Digital	438	5	Yes	Yes	No financial assistance except....
Digital	434	10	Yes	Yes	Exclusion from Cybersecurity on security reason
Single Market	441	5	Yes	Yes	
Fiscalis	443	5		Yes	
Customs	442	5		Yes	
Space	447	7	Yes	Yes	(Covered in seminar on 17/01)
ITER	445	2 (F4E)			Association to Euratom research programme
European solidary corps	440	14	Yes	Yes	Some action opened to neighbouring; obligation to set a NA
Interreg (Territorial cooperation including PEACE+)					Specific system: Each third country pays its own expenditure.

Sectoral participation rules: Horizon

- Horizon Europe

- Capacity in science, rule-based economy, intellectual property protection, well-being of citizens
- Parts of the programme may be excluded from an association agreement for a specific country
- Importance of the Work Programme
- Reciprocity clause
- Financial contribution: automatic correction of any significant imbalance compared to the amount that entities established in the associated country receive
- Any legal entity, regardless of its place of establishment, or international organisation may participate in actions under the programme. Entities established in a non-associated third country should in principle bear the cost of their participation.
- Link between Horizon Europe and mobility of researchers

Sectoral participation rules for some other programmes

Erasmus

- Setting-up a national agency
- Individuals and entities from third countries that are not associated to the Programme should be able to participate in some of the actions of the Programme, as defined in the Work Programme.
- Notion of «programme» countries (associated) and «partner» countries
- Mobility of youth, students and teachers is central for Erasmus

Creative Europe

- Legal entities established in third countries not associated to the programme can only participate with contributions of external financing instruments [Neighbourhood, Development and International Cooperation Instrument, IPA III]
- Participation of EEA, accession and ENP has to respect Directive 2010/13/EU (“Audiovisual Media Services Directive”).

EEA/EFTA

Norway, Iceland, Lichtenstein

- EEA/EFTA agreement lists (in art 78) the areas for cooperation.

Procedure

- Participation by EFTA States in EC framework programmes, specific programmes, projects or other actions. Participation agreed by decision of Joint Committee amending Protocol No 31.

Conditions

- Art 81 states that EEA/EFTA should have access to all part of the programmes, participation to committee takes into account financial contribution, same right as Member States (except voting in committees), undertaking to facilitate movement of persons.
- Art 82 defines the formula for financial contribution:
$$\text{GDP_EFTA}/(\text{GDP_Union}+\text{GDP_EFTA})$$
. Its application is described in Protocol 32.

Other third countries (1/2)

- Euratom and Switzerland concluded in 1978 a Cooperation Agreement in the field of controlled thermonuclear fusion and plasma physics (the Fusion agreement).
- In 1986, the Union and Switzerland established a Framework agreement for scientific and technical cooperation. It foresees participation in joint programmes or sub-programmes and joint actions and that the cooperation shall be carried out through appropriate agreements including the modalities for financial participation in cooperation agreements.
- Switzerland has been associated to the Research framework programme since FP6 (January 2004).
- Since 2006, Switzerland is fully associated to F4E JU for the participation in ITER (with voting rights).
- From 2014, a “comprehensive agreement” regulates the association of Switzerland to Horizon 2020, the Euratom Research and Training Programme, and its participation in ITER. It replaced the Fusion agreement.
- Formula for financial contribution:
 - same as EEA/EFTA for fusion activities and ITER: $GDP_CH / (GDP_Union + GDP_CH)$
 - same as general third countries for Horizon 2020 and large parts of the Euratom Research and Training Programme: GDP_CH / GDP_Union
- Horizon 2020 – late and partial association: from 15/09/2014 to 31/12/2016, Switzerland was only allowed to be partially associated to Horizon 2020 due to the Swiss 'mass immigration' referendum (2014), and also to the entire Euratom Research and Training Programme and F4E JU/ITER.
- As Switzerland in December 2016 ratified the Croatia Protocol, the condition was met for Switzerland to become fully associated as of 01/01/2017 to all of Horizon 2020 (and Euratom and F4E JU/ITER).
- Switzerland is by far the most active Associated Country both in terms of number of participations and size of EU budget contribution to Switzerland entities.
- Negotiations started on Erasmus but were never completed

Other third countries (2/2)

- EU–Israel Association Agreement signed in 1995 and applicable since 2000 foresees that “The Parties undertake to intensify scientific and technological cooperation. Detailed arrangements for the implementation of this objective shall be set out in separate agreements concluded for this purpose.”
- In 2008, a protocol defined the rules for participation in Union programmes. It specifies that Israel shall be observer in committees. Specific MoU per programme defines the financial contribution and the rules on sound financial management, inclusive powers of EC, CoA and OLAF.
- In 2014, the Union and Israel signed an agreement for the participation in Horizon 2020. This agreement is conditional on the existence of the association agreement and its protocol.
 - Financial contribution is $GDP_{\text{Israel}}/GDP_{\text{Union}}$
 - Audit by Commission agents and Court of Auditors even after expiration of the programme
 - On-the-spot checks by OLAF
 - Decisions taken by the Commission under the Programmes covered by this Agreement which impose a pecuniary obligation on persons other than States shall be enforceable in Israel. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission and suspend its enforcement.

Conclusions

- The future relationship should establish general principles, terms and conditions for the United Kingdom's participation in Union programmes.
- These conditions would be subject to the requirements set out in the legislative acts governing the corresponding Union instruments.
- They will include the general rules for the consultation of the UK as well as the rules on
 - Financing,
 - Ensuring a fair balance as regards contributions and benefits of the UK,
 - Guarantees regarding sound financial management, and
 - The protection of Union's financial interests as regards the control and audit of the implementation of the programmes and investigation in case of fraud.
- The areas covered include among others science and innovation, youth, culture and education, overseas development and external action, defence capabilities, civil protection and space.