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**NOTE**

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From: General Secretariat of the Council

To: Delegations

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Subject: Annex to the Council Decision authorising the opening of negotiations with India for an agreement on the participation of India in Union programmes and on its association to Pillar II of Horizon Europe

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**DIRECTIVES FOR THE NEGOTIATION OF AN AGREEMENT BETWEEN THE EUROPEAN UNION, OF THE ONE PART, AND THE REPUBLIC OF INDIA, OF THE OTHER PART, ON AN AGREEMENT ON THE PARTICIPATION OF THE REPUBLIC OF INDIA IN UNION PROGRAMMES AND THE ASSOCIATION OF THE REPUBLIC OF INDIA TO PILLAR II OF HORIZON EUROPE – THE FRAMEWORK PROGRAMME FOR RESEARCH AND INNOVATION (2021-2027).**

1. The agreement should lay down the terms and conditions of participation of the Republic of India in any Union programme. It shall:
  - (a) ensure a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;
  - (b) lay down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article 21(5) of the Financial Regulation<sup>1</sup>;
  - (c) not confer on the third country any decision-making power in respect of the Union programme;
  - (d) guarantee the rights of the Union to ensure sound financial management and to protect its financial interests.
2. The agreement should provide that any future association of the Republic of India to further Union programmes should take the form of individual protocols to the agreement. In negotiations, the Commission should explore the possibility for such protocols to be adopted through a simplified procedure by a body established under the agreement. The general principles relevant for participation in any Union programme would be set out in the agreement.
3. The agreement should determine the level of financial contribution payable by the Republic of India to the general budget of the Union.

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

4. The protocol on the participation in Horizon Europe (2021-2027) should lay down specific terms and conditions for the Republic of India to participate in Pillar II ‘Global Challenges and European Industrial Competitiveness’ of Horizon Europe – the Framework Programme for Research and Innovation (2021-2027), in line with Regulation (EU) 2021/695 of the European Parliament and of the Council<sup>2</sup>, Council Decision (EU) 2021/764<sup>3</sup>, and any other rules pertaining to the implementation of the programme.
5. The protocol on the participation in Horizon Europe should provide for the Republic of India to have observer status on the Horizon Europe Programme Committee according to the Republic of India’s scope of association to the programme (thus only for those configurations of the Programme Committee which are involved in implementing Pillar II).
6. The protocol on the participation in Horizon Europe should contain a reciprocity clause ensuring that legal entities established in the Union are able to participate, in a reciprocal manner, in the Republic of India’s programme(s) equivalent to Pillar II of Horizon Europe, as far as possible.
7. The protocol on the participation in Horizon Europe should set out the relevant Horizon Europe provisions related to the protection of the Union’s strategic assets, interests, autonomy or security.
8. The agreement should promote shared fundamental values and principles, including as regards international cooperation in research and innovation.

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

<sup>3</sup> Council Decision (EU) 2021/764 of 10 May 2021 establishing the Specific Programme implementing Horizon Europe – the Framework Programme for Research and Innovation, and repealing Decision 2013/743/EU (OJ EU L 167 I, 12.5.2021, p. 1).

9. The agreement should set out rules on sound financial management of Union funding. In particular, the agreement should provide for the financial interests of the Union to be adequately protected, including by preventing, detecting, correcting and investigating irregularities, including fraud, recovering funds lost, wrongly paid or incorrectly used, and, where appropriate, imposing administrative penalties and the recovery of money. The European Anti-Fraud Office (OLAF) should be able to carry out administrative investigations, including on-the-spot checks and inspections. The European Public Prosecutor's Office (EPPO) should be able to investigate and prosecute criminal offences against the financial interests of the Union.
  
  10. The Commission should, during negotiations, explore the possibility of including a clause on provisional and/or retroactive application of the agreement. The agreement should be in coherence with related Union policies and objectives.
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