

AGREEMENT**between the European Community and the Swiss Confederation concerning the participation of Switzerland in the European Environment Agency and the European Environment Information and Observation Network**

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

and

THE SWISS CONFEDERATION, hereinafter referred to as 'Switzerland',

Hereinafter together referred to as the 'Contracting Parties',

RECOGNISING the transboundary nature of environmental issues and the importance of enhancing international cooperation in the field of environment,

TAKING INTO ACCOUNT Council Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network, as amended by Council Regulation (EC) No 933/1999 and Regulation (EC) No 1641/2003 of the European Parliament and of the Council,

TAKING INTO ACCOUNT that the activities of the European Environment Agency and the European Environment Information and Observation Network have already extended to other European countries by means of bilateral agreements entered into by the European Community,

HAVE AGREED AS FOLLOWS:

Article 1

Switzerland shall participate fully in the European Environment Agency, hereinafter referred to as the 'Agency', and the European Environment Information and Observation Network (EIONET) and shall apply the acts listed in Annex I.

Article 2

Switzerland shall contribute financially to the activities referred to under Article 1 (Agency and EIONET) in accordance with the following:

- (a) The annual contribution for a given year shall be calculated on the basis of the Community subsidy to the budget of the Agency for that given year, divided by the number of Member States of the Community.
- (b) The further terms and conditions of the financial contribution of Switzerland are set out in Annex II.

Article 3

Switzerland shall participate fully, without the right to vote, in the Agency Management Board and shall be associated with the work of the Scientific Committee of the Agency.

Article 4

Switzerland shall, within six months from the entry into force of this Agreement, inform the Agency of the main component elements of its national information networks as set out in the acts listed in Annex I.

Article 5

Switzerland shall in particular designate from among the institutions referred to in Article 4 or from among other organisations established in its territory a 'national focal point' for coordinating and/or transmitting the information to be supplied at national level to the Agency and to the institutions or bodies forming part of the EIONET, including the topic centres referred to under Article 6.

Article 6

Switzerland may also, within the period laid down in Article 4, identify the institutions or other organisations established in its territory, which could be specifically entrusted with the task of cooperating with the Agency as regards certain topics of particular interest. An institution thus identified should be in a position to conclude an agreement with the Agency to act as a topic centre of the network for specific tasks. These centres shall cooperate with other institutions which form part of the network.

Article 7

Within six months of receiving the information referred to in Articles 4, 5 and 6, the Management Board of the Agency shall review the main elements of the network to take account of the participation of Switzerland.

Article 8

Switzerland should, subject to the condition that confidentiality is protected, provide data according to the obligations and practice established in the Agency work programme.

Article 9

The Agency may agree with the institutions or bodies designated by Switzerland and which form part of the network, as referred to in Articles 4, 5 and 6, upon the necessary arrangements, in particular contracts, for successfully carrying out the tasks which it may entrust to them.

Article 10

Environmental data supplied to or emanating from the Agency may be published and shall be made accessible to the public, provided that confidential information is afforded the same degree of protection in Switzerland as it is afforded within the Community.

Article 11

The Agency shall have legal personality in Switzerland and it shall enjoy in Switzerland the most extensive legal capacity accorded to legal persons under its laws.

Article 12

Switzerland shall apply to the Agency the Protocol on the Privileges and Immunities of the European Communities, which is set out as Annex III.

Article 13

By way of derogation from Article 12(2)(a) of Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 on the Staff Regulations of Officials and the Conditions of Employment of other servants of the European Communities, nationals of Switzerland enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.

Article 14

The provisions relating to financial control by the Community in Switzerland concerning the participants in the activities of the Agency or EIONET are set out in Annex IV.

Article 15

The Contracting Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in this Agreement are attained.

Article 16

1. A Joint Committee, composed of representatives of the Contracting Parties, shall ensure the proper application of this Agreement. It shall meet upon request of a Contracting Party.

2. The Joint Committee shall hold an exchange of views on the implications of new Community legislation amending Regulation EEC No 1210/90 or any other legal instrument referred to in this Agreement, including, if appropriate, on any expected implications relating to the financial contribution laid down in Article 2 of this Agreement and Annex II thereto.

3. In accordance with the respective internal procedures of the Contracting Parties, the Joint Committee may adopt a decision amending the Annexes to this Agreement or decide any other measure to safeguard the proper functioning of this Agreement.

4. The Joint Committee shall act by mutual agreement.

Article 17

The Annexes to this Agreement, including the Appendix thereto, shall form an integral part thereof.

Article 18

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the terms laid down in this Treaty and, on the other hand, to the territory of Switzerland.

Article 19

This Agreement is concluded for an unlimited period. Either Contracting Party may denounce this Agreement by notifying the other Contracting Party. This Agreement shall cease to apply six months after the date of such notification.

Article 20

This Agreement will be approved by the Contracting Parties in accordance with their own internal procedures. It shall enter into force on the first day of the second month following the day on which the Contracting Parties notify each other that the procedures necessary to this end have been completed.

Article 21

1. This Agreement shall be drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

2. The Maltese language version shall be authenticated by the Contracting Parties on the basis of an exchange of letters. It shall also be authentic, in the same way as for the languages referred to in paragraph 1.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have hereunto set their hands.

Hecho en Luxemburgo, el veintiséis de octubre de dos mil cuatro.

V Lucemburku dne dvacátého šestého října dva tisíce čtyři.

Udfærdiget i Luxembourg den seksogtyvende oktober to tusind og fire.

Geschehen zu Luxemburg am sechszwanzigsten Oktober zweitausendundvier.

Kahe tuhande neljanda aasta oktoobrikuu kahekümne kuuendal päeval Luxembourgis.

Έγινε στο Λουξεμβούργο, στις είκοσι έξι Οκτωβρίου δύο χιλιάδες τέσσερα.

Done at Luxembourg on the twenty-sixth day of October in the year two thousand and four.

Fait à Luxembourg, le vingt-six octobre deux mille quatre.

Fatto a Lussemburgo, addì ventisei ottobre duemilaquattro.

Luksemburgā, divi tūkstoši ceturťā gada divdesmit sestajā oktobrī.

Priimta du tūkstančiai ketvirtų metų spalio dvidešimt šestą dieną Liuksemburge.

Kelt Luxembourgban, a kettőezer-negyedik év október havának huszonhatodik napján.

Magħmula fil-Lussemburgu fis-sitta u għoxrin jum ta' Ottubru tas-sena elfejn u erbgha.

Gedaan te Luxemburg, de zesentwintigste oktober tweeduizendvier.

Sporządzono w Luksemburgu, dnia dwudziestego szóstego października roku dwa tysiące czwartego.

Feito no Luxemburgo, em vinte e seis de Outubro de dois mil e quatro.

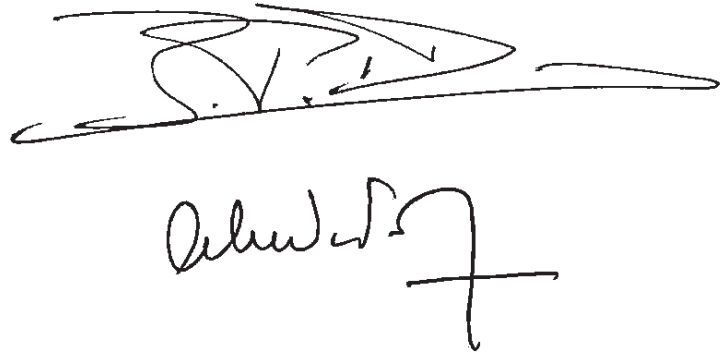
V Luxemburgu dvadsiateho šiesteho oktobra dvetisícštyri.

V Luxembourggu, dne šestindvajsetega oktobra leta dva tisoč štiri

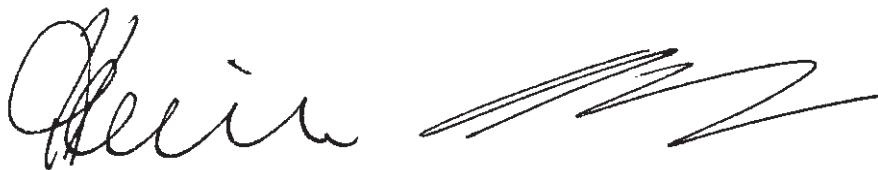
Tehty Luxemburgissa kahdentenäkymmenentenäkuudentena päivänä lokakuuta vuonna kaksituhattaneljä.

Som skedde i Luxemburg den tjugosjätte oktober tjugohundrafyra.

Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
az Európai Közösség részéről
Għall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Za Európske spoločenstvo
za Evropsko skupnost
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar



Für die Schweizerische Eidgenossenschaft
Pour la Confédération suisse
Per la Confederazione svizzera



ANNEX I

Applicable acts

Wherever acts specified in this Annex contain references to Member States of the European Community, or a requirement for a link with the latter, the references shall, for the purpose of this Agreement, be understood to apply equally to Switzerland or to the requirement of a link with Switzerland.

- Council Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network (OJ L 120, 11.5.1990, p. 1), as amended by:
 - Council Regulation (EC) No 933/1999 of 29 April 1999 (OJ L 117, 5.5.1999, p. 1);
 - Regulation (EC) No 1641/2003 of the European Parliament and of the Council of 22 July 2003 (OJ L 245, 29.9.2003, p. 1).

ANNEX II

Financial contribution of Switzerland to the European Environment Agency

1. The financial contribution to be paid by Switzerland to the budget of the European Union to participate in the Agency will be calculated by dividing the annual Community subsidy to the Agency for a given year by the number of Member States of the Community.
2. The contribution of Switzerland will be managed in accordance with the Financial Regulation applicable to the general budget of the European Communities.
3. Travel costs and subsistence costs incurred by representatives and experts of Switzerland for the purposes of taking part in the Agency activities or meetings related to the implementation of the Agency's work programme shall be reimbursed by the Agency on the same basis as and in accordance with the procedures currently in force for the experts of the Member States of the Community.
4. After the entry into force of this Agreement and at the beginning of each following year, the Commission of the European Communities, hereinafter referred to as 'the Commission', will send to Switzerland a call for funds corresponding to its contribution to the Agency under this Agreement. For the first calendar year of its participation Switzerland will pay a contribution calculated from the date of participation to the end of the year on a pro rata basis. For the following years the contribution will be in accordance with this Agreement.

This contribution shall be expressed in euro and paid into a euro bank account of the Commission.

5. Switzerland will pay its contribution according to the call for funds by 1 May provided that the call for funds is sent by the Commission before 1 April, or at the latest in a period of 30 days after the call for funds is sent.

Any delay in the payment of the contribution shall give rise to the payment of interest by Switzerland on the outstanding amount from the due date. The interest rate corresponds to the rate applied by the European Central Bank, on the due date, for its operations in euro, increased by 1,5 percentage points.

ANNEX III

Protocol on the privileges and immunities of the European Communities

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities, these Communities and the European Investment Bank shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to this Treaty.

CHAPTER I

PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE EUROPEAN COMMUNITIES*Article 1*

The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation.

The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 2

The archives of the Communities shall be inviolable.

Article 3

The Communities, their assets, revenues and other property shall be exempt from all direct taxes.

The governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Communities make, for their official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Communities.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 4

The Communities shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for their official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country.

The Communities shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of their publications.

Article 5

The European Coal and Steel Community may hold currency of any kind and operate accounts in any currency.

CHAPTER II

COMMUNICATIONS AND LAISSEZ PASSER*Article 6*

For their official communications and the transmission of all their documents, the institutions of the Communities shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

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

Article 7

1. *Laissez passer* in a form to be prescribed by the Council, which shall be recognized as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Communities by the Presidents of these institutions. These *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 Communities.

The Commission may conclude agreements for these *laissez passer* to be recognised as valid travel documents within the territory of third countries.

2. The provisions of Article 6 of the Protocol on the privileges and immunities of the European Coal and Steel Community shall, however, remain applicable to members and servants of the institutions who are at the date of entry into force of this Treaty in possession of the *laissez passer* provided for in that Article, until the provisions of paragraph 1 of this Article are applied.

CHAPTER III

MEMBERS OF THE EUROPEAN PARLIAMENT*Article 8*

No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament.

Members of the European Parliament shall, in respect of customs and exchange control, be accorded:

- (a) by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;
- (b) by the government of other Member States, the same facilities as those accorded to representatives of foreign governments on temporary official missions.

Article 9

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

Article 10

During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

CHAPTER IV

REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN COMMUNITIES

Article 11

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

This Article shall also apply to members of the advisory bodies of the Communities.

CHAPTER V

OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN COMMUNITIES

Article 12

In the territory of each Member State and whatever their nationality, officials and other servants of the Communities 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 Communities and, on the other hand, to the jurisdiction of the Court in disputes between the Communities and their 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 the country concerned, 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 the country in which this right is exercised;
- (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 the country concerned.

Article 13

Officials and other servants of the Communities shall be liable to a tax for the benefit of the Communities on salaries, wages and emoluments paid to them by the Communities, in accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Communities.

Article 14

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 Member States of the Communities, officials and other servants of the Communities who, solely by reason of the performance of their duties in the service of the Communities, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Communities, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Communities. 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 preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; 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 15

The Council shall, acting unanimously on a proposal from the Commission, lay down the scheme of social security benefits for officials and other servants of the Communities.

Article 16

The Council shall, acting on a proposal from the Commission and after consulting the other institutions concerned, determine the categories of officials and other servants of the Communities to whom the provisions of Article 12, the second paragraph of Article 13, and Article 14 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 the governments of the Member States.

CHAPTER VI

PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES ACCREDITED TO THE EUROPEAN COMMUNITIES

Article 17

The Member State in whose territory the Communities have their seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Communities.

CHAPTER VII

GENERAL PROVISIONS

Article 18

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

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

Article 19

The institutions of the Communities shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

Article 20

Articles 12 to 15 and Article 18 shall apply to Members of the Commission.

Article 21

Articles 12 to 15 and Article 18 shall apply to the Judges, the Advocates General, the Registrar and the Assistant Rapporteurs of the Court of Justice, without prejudice to the provisions of Article 3 of the Protocols on the Statute of the Court of Justice concerning immunity from legal proceedings of Judges and Advocates General.

Article 22

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

Article 23

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall, in addition, be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

The above provisions shall also apply to the European Monetary Institute. Its dissolution or liquidation shall not give rise to any imposition.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol.

Done at Brussels this eighth day of April in the year one thousand nine hundred and sixty-five.

*Appendix to ANNEX III***Procedure for the application in Switzerland of the Protocol on privileges and immunities****1. Extension of application to Switzerland**

Wherever the Protocol on the privileges and immunities of the European Communities (hereinafter called 'the Protocol') contains references to Member States, the references shall be understood to apply equally to Switzerland, unless the following provisions determine otherwise.

2. Exemption of the Agency from indirect taxation (including VAT)

Goods and services exported from Switzerland shall not be subject to Swiss value added tax (VAT). In the case of goods and services provided to the Agency in Switzerland for its official use, in accordance with the second paragraph of Article 3 of the Protocol, exemption from VAT shall be granted by way of refund. Exemption from VAT shall be granted if the actual purchase price of the goods and services mentioned in the invoice or equivalent document totals at least 100 Swiss francs (inclusive of tax).

The VAT refund shall be granted on presentation to the Federal Tax Administration's VAT Main Division of the Swiss forms provided for the purpose. As a rule, refund applications shall be processed within the three months following the date on which they were lodged together with the necessary supporting documents.

3. Procedure for the application of the rules relating to the Agency's staff

As regards the second paragraph of Article 13 of the Protocol, Switzerland shall exempt, according to the principles of its national law, officials and other servants of the Agency within the meaning of Article 2 of Regulation (Euratom, ECSC, EEC) No 549/69 of the Council of 25 March 1969 (OJ L 74, 27.3.1969, p. 1) from federal, cantonal and communal taxes on salaries, wages and emoluments paid to them by the Community and subject to an internal tax for its own benefit.

Switzerland shall not be considered as a Member State within the meaning of point 1 above for the application of Article 14 of the Protocol.

Officials and other servants of the Agency and members of their families who are members of the social insurance system applicable to officials and other servants of the Community shall not be obliged to be members of the Swiss social security system.

The Court of Justice of the European Communities shall have exclusive jurisdiction in any matters concerning relations between the Agency or the Commission and its staff with regard to the application of Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 (OJ L 56, 4.3.1968, p. 1) and the other provisions of Community law laying down working conditions.

ANNEX IV

Financial control as regards Swiss participants in activities of the European Environment Agency and EIONET*Article 1***Direct communication**

The Agency and the Commission shall communicate directly with all persons or entities established in Switzerland and participating in activities of the Agency or EIONET, as contractors, participants in Agency programmes, recipients of payments from the Agency or the Community budget, or subcontractors. Such persons may send directly to the 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 Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 and the financial regulation adopted by the Management Board of the Agency on 26 March 2003, with Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 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 Agency and Commission officials or by other persons mandated by the Agency and the Commission.
2. Agency and Commission officials and other persons mandated by the Agency and the 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. This right of access shall be stated explicitly in the contracts or agreements concluded to implement the instruments referred to in this Agreement.
3. The Court of Auditors of the European Communities is to have the same rights as the Commission.
4. The audits may take place until five years after the expiry of this Agreement or under the terms of the contracts or agreements concluded and the decisions taken.
5. The Swiss Federal Audit Office shall be informed in advance of audits conducted on Swiss territory. This information shall not be a legal condition for carrying out such audits.

*Article 3***On-the-spot checks**

1. Under this Agreement, the Commission (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 2185/96 of 11 November 1996.
2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close cooperation with the Swiss Federal Audit Office or with other competent Swiss authorities appointed by the Swiss Federal Audit Office, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, the officials of the competent Swiss authorities may participate in the on-the-spot checks and inspections.
3. If the Swiss authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and by them.
4. Where the participants in the programme resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give the 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 Commission shall report as soon as possible to the Swiss Federal Audit Office 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 Commission is required to inform the aforementioned authority of the result of such checks and inspections.

*Article 4***Information and consultation**

1. For the purposes of proper implementation of this Annex, the competent Swiss and Community authorities shall exchange information regularly and, at the request of one of the Parties, shall conduct consultations.
2. The competent Swiss authorities shall inform the Agency and the 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 the Community institutions. Such information shall not be communicated to persons other than those within the Community institutions, 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 effective protection of the financial interests of the Contracting Parties.

*Article 6***Administrative measures and penalties**

Without prejudice to application of Swiss criminal law, administrative measures and penalties may be imposed by the Agency or the Commission in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 and with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests.

*Article 7***Recovery and enforcement**

Decisions taken by the Agency or the Commission within the scope of this Agreement which impose a pecuniary obligation on persons other than States shall be enforceable in Switzerland. The enforcement order shall be issued, without any further control than verification of the authenticity of the act, by the authority designated by the Swiss government, which shall inform the Agency or the Commission thereof. Enforcement shall take place in accordance with the Swiss rules of procedure. The legality of the enforcement decision shall be subject to control by the Court of Justice of the European Communities.

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