COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.8.2007
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2007/0171 (CNS)

Proposal for a

COUNCIL DECISION

concerning the signature of an Agreement between the Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programme MEDIA 2007, and a Final Act

Proposal for a

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concerning the conclusion of an Agreement between the Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programme MEDIA 2007, and a Final Act

(presented by the Commission)

EXPLANATORY MEMORANDUM

Participation in the Community programme MEDIA 2007, as indicated in Article 8 of the Decision establishing the programme[1], is open to EFTA countries which are members of the EEA, as well as European third countries party to the Convention of the Council of Europe on Transfrontier Television. The opening-up of the Programmes to such European third countries is subject to prior examination as to the compatibility of their national legislation with the Community acquis, in both its internal and external dimensions.

Following the results of the 1992 referendum, rejecting Switzerland's participation in the EEA Agreement, Switzerland showed continued interest in strengthening cooperation with the EU in the audiovisual sector. In a joint declaration on future negotiations attached to the seven agreements between the European Community and Switzerland signed on 21 June 1999, both sides stated that preparatory work for negotiations on the Swiss participation in the Community MEDIA programmes should proceed rapidly.

This area of cooperation was indeed broached during the next cycle of bilateral negotiations. On 26 October 2004 the European Community and Switzerland signed an Agreement on the participation of Switzerland in the MEDIA Plus and MEDIA Training programmes.[2] The agreement entered into force on 1 April 2006.[3]

With the ending of the MEDIA Plus and MEDIA Training programmes, the agreement came to an end 31 December 2006.

The Council authorised on 12 February 2007 the opening of negotiations with Switzerland for its participation in the MEDIA 2007 programme. On the basis of the negotiating directives attached to the Council decision authorising the opening of negotiations, and in consultation with the relevant committee appointed by the Council, the Commission has conducted negotiations with Switzerland for a new Agreement permitting its participation in MEDIA 2007.

The draft Agreement and a draft Final Act were initialled on 2 July 2007. Both documents are attached to the proposals for Council decisions.

Switzerland is the first, and at the moment the only, European country which not being member of the EEA nor a candidate country would take part in this programme.

The main issues addressed in the draft Agreement are the following:

- In line with the prerequisites for participation set out in the decision establishing the programme, the Agreement defines, in Annex I, the conditions to be met by the Swiss broadcasting regulatory framework, as well as other relevant arrangements, that will have to be in force as of the moment the Agreement comes into force. In this regard, provisions already included in the previous agreement have been revised and completed to allow closer compatibility of Swiss legislation with the acquis: Articles 1 and 4 in Annex I permit a closer match on provisions regarding the freedom of reception and retransmission

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1 Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007) (OJ L 327, 24.11.2006, p. 12).

2 OJ L 90 of 28.3.2006, p. 23.

3 OJ L 90 of 28.3.2006, p. 35.

and Article 2 in the same Annex I guarantees Swiss compliance with Community provisions regarding measures taken to safeguard the broadcasting of events of major importance for society - Article 3a of the 'Television without Frontiers' Directive. The Community will grant symmetrical treatment to Switzerland through a Council declaration included in the Final Act.

- Projects and initiatives submitted by participants from Switzerland will be subject to the same conditions, rules and procedures pertaining to these programme as are applied to Member States, regarding in particular the submission, assessment and selection of applications and projects, the responsibilities of the national structures in the implementation of the programme, and the activities related to the monitoring of their participation in the programme.

- Switzerland will each year pay a contribution to the programme, as established in Annex II to the Agreement.

- Concerning financial control and audit matters, Switzerland will conform to Community provisions, including controls by Community bodies, as established in Annex III.

- The Agreement will be provisionally applied as from the date of its signature and will continue to apply until the programme comes to an end, or until one of the sides notifies the other side of its wish to terminate the Agreement.

- The Agreement will be managed by a joint committee, composed of representatives of both parties.

On 30 May 2007, the Swiss transmitted a letter to the Commission (Federal Councillor Couchepin to Commissioner Reding) reiterating that Swiss positions on the external dimension of audiovisual policy are in line with those of the European Union, positions that Switzerland maintains in the relevant international negotiations. In this line, the letter indicated that Switzerland is currently in the process of ratifying the UNESCO Convention on the Promotion of the Diversity of Cultural Expressions.

Building on the spirit of the letter, to ensure the healthy implementation of the Agreement and to reinforce cooperation in matters concerning audiovisual policy, a Joint Declaration establishing a mutually beneficial dialogue on these matters is included in the Final Act.

A second Joint Declaration signals the commitment of the Parties to adapt the Agreement, via the Joint Committee, once the revision of the currrent 'Television without Frontiers' Directive comes into force.

By analogy with the arrangements made at the signature of the previous Agreement on 20 October 2004, a Declaration of the Council covers questions concerning the attendance of representatives of Switzerland at Programme Committee meetings as observers, for the points which concern Switzerland.

A second Declaration of the Council concerning Annex I, is proposed in order to grant Switzerland symetrical treatment in correspondance with the commitments undertaken by Switzerland with regard to events of major importance to society.

The Commission has judged the results of the negotiations to be satisfactory and requests the Council to authorise the signature on behalf of the European Community of the Agreement between the Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programme MEDIA 2007, and a Final Act.

The proposed decision on signature and provisional application implements the provision of the draft Agreement on provisional application as of the day of signature. This provision shall enable participants from Switzerland to participate still in a significant number of calls.

Switzerland shall contribute financially to the MEDIA 2007 programme as if it was participating from the first day.

The proposed decision on the conclusion establishes the political link between this Agreement and the seven agreements signed on 21 June 1999, in particular the Agreement on the Free Movement of Persons for which Switzerland will decide in 2009 about its continuation, a decision which will most likely be subject of a referendum.

Proposal for a

COUNCIL DECISION

concerning the signature of an Agreement between the Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programme MEDIA 2007, and a Final Act

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 150 (4) and 157 (3), in conjunction with Article 300 (2), first sentence, thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007) (OJ L 327, 24.11.2006, p. 12), and in particular Article 8 thereof, provides that the programme shall be open to the participation of countries which are parties to the Council of Europe Convention on Transfrontier Television other than EFTA countries party to the EEA Agreement and candidate countries for accession to the European Union, on the basis of supplementary appropriations, in accordance with conditions to be established in agreements between the parties concerned.

(2) The Council has authorised the Commission to negotiate, on behalf of the European Community, an Agreement to enable the Swiss Confederation to participate in this programme and a Final Act to that Agreement.

(3) The negotiations were concluded on 2 July 2007 by initialling a draft Agreement.

(4) Article 13 of the Agreement provides that it shall be applied provisionally as from the date of signature.

(5) This Agreement and the Final Act should be signed,

HAS DECIDED AS FOLLOWS:

Article 1

Subject to its conclusion at a later date, the President of the Council is hereby authorised to appoint the person(s) empowered to sign the Agreement in order to bind the Community, and the Final Act.

Article 2

The Agreement shall be applied provisionally from the day of signature.

Article 3

The Commission shall represent the Community in the Joint Committee provided for in Article 8 of the Agreement.

Article 4

This Agreement is related to the seven agreements signed with Switzerland on 21 June 1999 and concluded by Council Decision of 4 April 2002.

This Agreement shall not be renewed or renegotiated in accordance with its Article 12 in case the agreements referred to in the first paragraph have been terminated.

Article 5

This Decision shall be published in the *Official Journal of the European Union*.

The texts of the Agreement and the Final Act are attached to this Decision.

Done at Brussels,

For the Council
The President

2007/0171 (CNS)

Proposal for a

COUNCIL DECISION

concerning the conclusion of an Agreement between the Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programme MEDIA 2007, and a Final Act

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 150 (4) and 157 (3), in conjunction with Article 300(2), first sentence, and Article 300(3), first sub-paragraph thereof,

Having regard to the proposal from the Commission

Having regard to the opinion of the European Parliament[4],

Whereas:

(1) The Commission has negotiated, on behalf of the European Community, an agreement to enable the Swiss Confederation to participate in the Community programme MEDIA 2007, and a Final Act.

(2) The Agreement and the Final Act were signed on behalf of the Community on …….2007, subject to conclusion at an ulterior date, in accordance with the Council Decision …./…./2007.[5]

(3) This Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the Swiss Confederation in the Audiovisual field, adopting the terms and conditions for the participation of the Swiss Confederation in the Community programme MEDIA 2007, is hereby approved on behalf of the European Community.

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4 OJ C …,…, p.…

5 OJ L … of …, p….

Article 2

The President of the Council shall, on behalf of the Community, give the notifications provided for in Article 13 of the Agreement.

Article 3

The Commission shall represent the Community in the Joint Committee provided for in Article 8 of the Agreement.

Article 4

This Agreement is related to the seven agreements signed with Switzerland on 21 June 1999 and concluded by Council Decision of 4 April 2002.

This Agreement shall not be renewed or renegotiated in accordance with its Article 12 in case the agreements referred to in the first paragraph have been terminated.

Article 5

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President

AGREEMENT

between the European Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programme MEDIA 2007

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

of the one part,

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

of the other part,

hereinafter together referred to as 'the Contracting Parties',

WHEREAS the Community, pursuant to Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006[6], has established a programme of support for the European audiovisual sector (hereinafter referred to as the 'Decision establishing the MEDIA 2007 programme');

WHEREAS Article 8 of the Decision establishing the MEDIA 2007 programme provides, under certain conditions, for the participation of third countries which are party to the Council of Europe Convention on Transfrontier Television, other than EFTA countries Party to the EEA Agreement and candidate countries for accession to the European Union, on the basis of supplementary appropriations and specific procedures to be established in agreements between the parties concerned;

WHEREAS the abovementioned provision makes the opening up of the programme to these third countries subject to a prior examination of the compatibility of their legislation with the relevant *acquis communautaire*;

WHEREAS Switzerland took part in the MEDIA Plus and MEDIA Training programmes that came to an end on 31 December 2006;

WHEREAS Switzerland is committed to completing its legislative framework in order to ensure the required level of compatibility with the *acquis communautaire*; whereas, therefore, on the date of entry into force of this Agreement, Switzerland fulfils the participation conditions laid down in Article 8 of the Decision establishing the MEDIA 2007 programme;

WHEREAS, in particular, cooperation between the Community and Switzerland, with a view to pursuing the objectives fixed for the MEDIA 2007 programme, within the context of transnational cooperation activities involving the Community and Switzerland, by its nature enriches the impact of the different actions undertaken

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[6] Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007) (OJ L 327, 24.11.2006, p. 12).

pursuant to that programme and strengthens the skill levels of human resources in the Community and Switzerland;

WHEREAS the Contracting Parties have a common interest in the development of the European audiovisual programme industry in the context of wider cooperation;

WHEREAS the Contracting Parties consequently expect to obtain mutual benefits from the participation of Switzerland in the MEDIA 2007 programme,

HAVE AGREED AS FOLLOWS:

Article 1

Subject matter

The objective of the cooperation between the Community and Switzerland established by this Agreement is the participation of Switzerland in all actions under the MEDIA 2007 programme. Unless otherwise provided by this Agreement, this shall take place with due regard for the objectives, criteria, procedures and deadlines laid down by the Decision establishing the MEDIA 2007 programme.

Article 2

Compatibility of legislative frameworks

In order to be able to fulfil the participation conditions laid down by the Decision establishing the MEDIA 2007 programme on the date of entry into force of this Agreement, Switzerland will implement the measures described in Annex I, with a view to completing its legislative framework so as to ensure the required level of compatibility with the *acquis communautaire*.

Article 3

Eligibility

Unless otherwise provided in this Agreement:

1. The conditions for the participation of organisations and individuals from Switzerland in each of the actions shall be the same as those applicable to organisations and individuals from the Member States of the Community.

2. The eligibility of institutions, organisations and individuals from Switzerland shall be governed by the relevant provisions in the Decision establishing the MEDIA 2007 programme.

3. In order to ensure the Community dimension of the programme, all projects and activities necessitating a European partnership shall, in order to be eligible for Community financial support, include at least one partner from one of the Member States of the Community. Other projects and actions shall present a clear European and Community dimension.

Article 4

Procedures

1. The terms and conditions for the submission, assessment and selection of applications from institutions, organisations and individuals from Switzerland shall be the same as those applicable to eligible institutions, organisations and individuals from the Member States of the Community.

2. In accordance with the relevant provisions in the Decision establishing the MEDIA 2007 programme, the Commission of the European Communities (hereinafter referred to as 'the Commission') may consider Swiss experts when appointing independent experts to assist it with project evaluation.

3. The language to be used in all contacts with the Commission, as regards the application process, contracts, reports to be submitted and other administrative aspects of the programme, shall be one of the official languages of the Community.

Article 5

National structures

1. Switzerland shall establish the appropriate structures and mechanisms at national level and shall adopt all other necessary measures for national coordination and organisation of activities to implement the MEDIA 2007 programme in accordance with the relevant provisions in the Decision establishing this programme. In particular, Switzerland undertakes to establish a MEDIA Desk in cooperation with the Commission.

2. The maximum amount of financial support to be allocated by the programme to the activities of the MEDIA Desk shall not exceed 50 % for the total budget for those activities.

Article 6

Financial provisions

To cover the costs resulting from its participation in the MEDIA 2007 programme, Switzerland shall each year pay a contribution to the general budget of the European Union in accordance with the terms and conditions set out in Annex II.

Article 7

Financial control

The rules on financial control relating to Swiss participants in the MEDIA 2007 programme are set out in Annex III.

Article 8

Joint Committee

1. A Joint Committee is hereby established.

2. The Joint Committee shall consist of representatives of the Community and representatives of Switzerland. It shall act by mutual agreement.

3. The Joint Committee shall be responsible for the management and proper implementation of this Agreement.

4. At the request of either one of them, the Contracting Parties shall exchange information and hold consultations within the Joint Committee on the activities covered by this Agreement and related financial aspects.

5. In order to discuss the proper functioning of this Agreement, the Joint Committee shall meet at the request of either of the Contracting Parties. It shall adopt its rules of procedure and may create working groups to assist it with its task.

6. The Contracting Parties may submit any disputes relating to the interpretation or application of this Agreement to the Joint Committee. The Joint Committee may settle such disputes and shall be provided with any information which might be useful for an in-depth examination of the situation with a view to finding an acceptable solution. To this end, the Joint Committee shall examine all possibilities for maintaining the proper functioning of this Agreement.

7. The Joint Committee shall periodically examine the Annexes to this Agreement. Acting on a proposal from either of the Contracting Parties, it may decide to amend them.

Article 9

Monitoring, evaluation and reports

Without prejudice to the responsibilities of the Community in relation to programme monitoring and evaluation pursuant to the relevant provisions in the Decision establishing the MEDIA 2007 programme, the participation of Switzerland in the MEDIA 2007 programme shall be continuously monitored in the context of a partnership between the Community and Switzerland. In order to help it to prepare reports on the experience acquired in the application of the programme, Switzerland shall submit to the Commission a contribution describing the national measures taken by Switzerland in this regard. It shall take part in any other specific activities proposed by the Community for this purpose.

Article 10

Annexes

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

Article 11

Territorial application

This Agreement shall apply to the territories in which the Treaty establishing the European Community is applicable, under the conditions laid down in that Treaty, and to the territory of Switzerland.

Article 12

Duration and termination

1. This Agreement is concluded for the duration of the MEDIA 2007 programme.

2. If the Community adopts a new multi-annual programme of support for the European audiovisual sector, this Agreement may be extended or renegotiated under mutually agreed conditions.

3. Either the Community or Switzerland may terminate this Agreement by notifying the other Party of its decision. The Agreement shall cease to apply 12 months after the date of such notification. Projects and activities in progress at the time of termination shall continue until their completion according to the conditions laid down in this Agreement. The Contracting Parties shall settle by mutual agreement any other consequences of termination.

Article 13

Entry into force and provisional application

This Agreement shall enter into force on the first day of the first month following the notification by the Contracting Parties of the completion of their respective procedures. It shall be provisionally applied as from the date of its signature.

Article 14

Use of languages

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

Done at …….. on…….

For the European Community For the Swiss Confederation

ANNEX I

Article 1

Freedom of broadcast reception and retransmission

1. Switzerland shall ensure freedom of reception and retransmission on its territory with regard to television broadcasts under the jurisdiction of a Member State of the Community (as determined pursuant to Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities[7], hereinafter referred to as the 'Television without Frontiers Directive', as amended by Directive 97/36/EC of the European Parliament and of the Council), in accordance with the following procedures:

   Switzerland shall maintain the right to

   (a) suspend retransmission of broadcasts from a television broadcasting organisation under the jurisdiction of a Member State of the Community which has manifestly, seriously and gravely infringed the rules on the protection of minors and human dignity set out in Articles 22 and 22a of the 'Television without Frontiers' Directive;

   (b) take action against a television broadcasting organisation which is established in the territory of a Member State of the Community but whose activity is entirely or mainly directed towards Swiss territory, if the place of establishment was chosen with a view to evading the rules which would have applied to the organisation had it been established on Swiss territory. These conditions will be interpreted in the light of the relevant case law of the Court of Justice of the European Communities.

2. In the cases referred to in paragraph 1 of this Article, action shall be taken after an exchange of views within the Joint Committee established under this Agreement.

Article 2

Events of major importance for society

1. Switzerland shall ensure that broadcasters within its jurisdiction will not exercise exclusive rights on events of major importance according to the list of a Member State of the Community in such a way that a substantial proportion of the public of this Member State is deprived of following these events, according to article 3a of the 'Television without Frontiers' Directive.

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[7] Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 298, 17.10.1989, p. 23).

2. In accordance with the provisions established in Article 3a of the 'Television without Frontiers' Directive, Switzerland shall inform the European Commission of the measures taken or to be taken in this regard.

Article 3

Promotion of distribution and production of European works

For the purpose of implementing the measures regarding the promotion and distribution of European works, the definition of a European work shall be that set out in Article 6 of the 'Television without Frontiers' Directive.

Article 4

Transitional provisions

Article 1 in this Annex will apply from 30 November 2009.

Before 30 November 2009, the provisions set out in Article 1 of Annex II of the Agreement of 26 October 2004 between the European Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programmes MEDIA Plus and MEDIA Training shall continue to apply.

ANNEX II

Financial contribution of Switzerland to MEDIA 2007

1. The financial contribution to be made by Switzerland to the budget of the European Union in order to participate in the MEDIA 2007 programme shall be as follows (in euro):

2007	2008	2009	2010	2011	2012	2013
4 205 000	5 805 677	5 921 591	6 039 823	6 160 419	6 283 427	6 408 897

2. The Financial Regulation applicable to the general budget of the European Communities[8] and its implementing rules[9] shall apply, in particular to the management of Switzerland's contribution.

3. The travel and subsistence expenses of representatives and experts from Switzerland in connection with their participation in meetings organised by the Commission in conjunction with implementation of the programme shall be reimbursed by the Commission on the same basis and in accordance with the procedures currently in force for experts from the Member States of the Community.

4. Following the provisional application of this Agreement, and at the beginning of each subsequent year, the Commission will send to Switzerland a request for funds corresponding to its contribution to the budget for the programme, in accordance with this Agreement. This contribution shall be expressed in euro and shall be paid into a euro bank account held by the Commission.

5. Switzerland shall pay its contribution by 1 April, if the request for funds is sent by the Commission before 1 March, or no later than 30 days after the request for funds if this is sent by the Commission after that date. Any delay in the payment of the contribution will entail the payment of interest by Switzerland on the outstanding amount from the due date. The interest rate shall correspond to the rate applied by the European Central Bank, on the due date, for its operations in euro, increased by 3,5 percentage points.

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[8] Council Regulation (EC, Euratom) N°1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248 of 16.9.2002, p.1), as modified by Regulation N°1995/2006 of 13 December 2006 (OJ L 390 of 30.12.2006, p.1).

[9] Commission Regulation (EC, Euratom) N°2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) N°1605/2002 (OJ L 357 of 31.12.2002, p.1), as last modified by Commission Regulation (EC, Euratom) N 478/2007 of 23 April 2007 (OJ L 111 of 28.04.2007, p. 13–45).

ANNEX III

Financial control of Swiss participants in the MEDIA 2007 programme

Article 1

Direct communication

The Commission shall communicate directly with programme participants established in Switzerland and with their subcontractors. These may submit directly to the Commission all relevant information and documentation which they are required to provide on the basis of the instruments referred to in this Agreement and of the contracts concluded to implement them.

Article 2

Audits

1. In accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, as last amended by Regulation No 1995/2006 of 13 December 2006, and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002, as last amended by Commission Regulation (EC, Euratom) No 478/2007 of 23 April 2007, and with the other provisions referred to in this Agreement, the grant agreement decisions involving programme participants established in Switzerland may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of participants or their subcontractors by Commission staff or other persons mandated by the Commission.

2. Commission staff and other persons mandated by 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 information in electronic form. This right of access shall be stated explicitly in the contracts entered into to implement the instruments referred to in this Agreement.

3. The Court of Auditors of the European Communities shall have the same rights as the Commission.

4. Audits may be conducted after the programme or this Agreement expire, on the terms laid down in the contracts in question.

5. The Swiss Federal Audit Office shall be informed in advance of audits to be conducted on Swiss territory. This information shall not be a legal condition for carrying out such audits.

Article 3

On-the-spot checks

1. Within the framework of this Agreement, the Commission (and OLAF) shall be authorised to carry out on-the-spot checks and inspections on Swiss territory, in accordance with the terms and conditions laid down in 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.

2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close collaboration with the Swiss Federal Audit Office or with the other competent Swiss authorities designated 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, officials of the competent Swiss authorities may participate in on-the-spot checks and inspections.

3. If the Swiss authorities concerned so wish, on-the-spot checks and inspections may be carried out jointly by the Commission and by them.

4. Where the participants in the MEDIA 2007 programme resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give Commission inspectors such assistance as they need to allow them to discharge their duty of 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 shall be required to inform the abovementioned 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 regularly exchange information and, at the request of one of the Parties, shall conduct consultations.

2. The competent Swiss authorities shall inform the Commission without delay of any information which has come to their notice suggesting an irregularity in connection with the conclusion and implementation of contracts or agreements concluded to implement the instruments referred to in this Agreement.

Article 5

Confidentiality

Information communicated or acquired in any form under 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 may not be communicated to persons other than those in 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 Contracting Parties' financial interests.

Article 6

Administrative measures and penalties

Without prejudice to application of Swiss criminal law, administrative measures and penalties may be imposed by the Commission in accordance with Regulation (EC, Euratom) No 1605/2002, Regulation (EC, Euratom) No 2342/2002 and 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 Commission under the MEDIA 2007 programme 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 checks other than verification of the authenticity of the act, by the authority designated by the Swiss government, which shall inform the Commission thereof without any undue delay. 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 of the Court of Justice of the European Communities and the Court of First Instance pursuant to an arbitration clause shall be enforceable on the same terms.

FINAL ACT

The plenipotentiaries of the EUROPEAN COMMUNITY and of the SWISS CONFEDERATION, meeting at ……..on …….. 2007, for the signature of the Agreement between the European Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programme MEDIA 2007, have adopted the following joint declarations, which are attached to this Final Act:

Joint Declaration by the Contracting Parties on the development of a mutually beneficial dialogue on audiovisual policy.

Joint Declaration by the Contracting Parties on the adaptation of the Agreement to the new Community Directive.

They have also noted the following declarations, which are attached to this Final Act:

Declaration of the Council on Swiss participation in committees.

Declaration of the council on Annex I of the Agreement.

Done at …….. on…….

For the Swiss Confederation For the European Community

JOINT DECLARATION

by the Contracting Parties on the development of a mutually beneficial dialogue on audiovisual policy

The two Parties declare that, with a view to ensuring the proper implementation of the Agreement and consolidating the spirit of cooperation in matters relating to audiovisual policy, the development of a dialogue on these subjects is a matter of mutual interest. The two Parties declare that this dialogue will take place both within the Joint Committee established under the Agreement and in other arenas, wherever appropriate and whenever necessary. The two Parties declare that, with this in mind, representatives of Switzerland may be invited to meetings held on the fringe of meetings of the 'Contact Committee' established by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.

JOINT DECLARATION

by the Contracting Parties on the adaptation of the Agreement to the new Community Directive

The Parties declare that when a new Directive is adopted on the basis of the Commission Proposal for a Directive of the European Parliament and of the Council amending Council Directive 89/552/EEC (COM/2005/0646 final), the Joint Committee shall decide on the replacement in Article 1 of Annex I, of the reference to Directive 97/36/EC of the European Parliament and the Council by a reference to the new directive.

DECLARATION OF THE COUNCIL

on Swiss participation in committees

The Council agrees that Switzerland's representatives shall, in so far as the items concern them attend meetings of the MEDIA programme committees and expert groups as observers. These committees and expert groups shall meet without the Swiss representatives when voting.

DECLARATION OF THE COUNCIL

on Annex I of the Agreement

For the good functioning of the Agreement,

i) corresponding to Switzerland's commitment regarding the freedom of broadcast reception and retransmission, television broadcasts under the jurisdiction of Switzerland will be granted the same treatment that Switzerland applies to television broadcasts under the jurisdiction of a Member State of the Community, as established in Article 1 in this Annex.

ii) corresponding to Switzerland's commitment to facilitate the application of provisions concerning the measures taken by the Member States to ensure the broadcasting of events of major importance for society, equal treatment to that which is given to Member States measures contemplated under Article 3a of the 'Television without Frontiers' Directive, shall be granted to measures taken or to be taken by Switzerland in this regard.

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL

Proposal for a Council Decision concerning the signature of an Agreement between the Community and the Swiss Confederation in the audiovisual field, establishing the terms and conditions for the participation of the Swiss Confederation in the Community programme MEDIA 2007, and a Final Act.

2. ABM / ABB FRAMEWORK

Policy area: Information Society and Media

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex-B.A lines) including headings:

- Participation of Swiss partners in programme activities, as well as costs in connection with the implementation of the Agreement (travelling expenses of European experts and of Commission officials on mission, workshops, seminars and meetings) will be charged to the specific budget headings for the MEDIA 2007 programme and related budget lines:
  09 06 01 Media 2007
  09 01 04 05 MEDIA 2007 Expenditure on administrative Management
  09 01 04 30 Executive Agency for Education, Audiovisual & Culture – Subvention for programmes in heading 3B

- Swiss participation

- Budget line 6033 (revenue).

3.2. Duration of the action and of the financial impact:

From the date of its signature for the duration of the MEDIA 2007 programme, as laid out in articles 12 and 13 of the Agreement.

3.3. Budgetary characteristics (add rows if necessary):

Budget line	Expenditure type		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
06 06 01	Non-comp	Diff[10]	No	Yes	Yes	No 3B
09 01 04 05	Non-comp	Non-diff[11]	No	Yes	Yes	No 3B
09 01 04 30	Non-comp	Non-diff	No	Yes	Yes	No 3B

4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

€

Expenditure type	Section no.		2007	2008	2009	2010	2011	2012	2013	Total
Operational expenditure[12]										
Commitment Appropriations (CA)	8.1	a								
Payment Appropriations (PA)		b								
Administrative expenditure within reference amount[13]										
Technical & administrative assistance (NDA)	8.2.4	c	177 500	177 500	177 500	177 500	177 500	177 500	177 500	**1 242 500**

[10] Differentiated appropriations.
[11] Non-differentiated appropriations.
[12] Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.
[13] Expenditure within Article xx 01 04 of Title xx.

TOTAL REFERENCE AMOUNT

Commitment Appropriations		**a + c**	177 500	177 500	177 500	177 500	177 500	177 500	177 500	**1 242 500**
Payment Appropriations		**b + c**	177 500	177 500	177 500	177 500	177 500	177 500	177 500	**1 242 500**

Administrative expenditure not included in reference amount[14]

Human resources and associated expenditure (NDA)	8.2.5	d								
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e								

Total indicative financial cost of intervention

TOTAL CA including cost of Human Resources		a + c + d + e	177 500	177 500	177 500	177 500	177 500	177 500	177 500	**1 242 500**
TOTAL PA including cost of Human Resources		b + c + d + e	177 500	177 500	177 500	177 500	177 500	177 500	177 500	**1 242 500**

Co-financing details

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

[14] Expenditure within Chapter xx 01 other than Articles xx 01 04 or xx 01 05.

€

Co-financing body		2007	2008	2009	2010	2011	2012	2013	Total
	f								
TOTAL CA including co-financing	a + c + d + e + f								

4.1.2. Compatibility with Financial Programming

x Proposal is compatible with existing financial programming.

☐ Proposal will entail reprogramming of the relevant heading in the financial perspective.

☐ Proposal may require application of the provisions of the Inter-institutional Agreement[15] (i.e. flexibility instrument or revision of the financial perspective).

4.1.3. Financial impact on Revenue

☐ Proposal has no financial implications on revenue

x Proposal has financial impact – the effect on revenue is as follows:

€

		Prior to action [Year n-1]	Situation following action							
Budget line	Revenue*		2007	2008	2009	2010	2011	2012	2013	Total
6033	*a) Revenue in absolute terms*	0	4 205 000	5 805 677	5 921 591	6 039 823	6 160 419	6 283 427	6 408 897	40 824 834
	b) Change in revenue	()								

*estimated revenue

(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)

[15] See points 19 and 24 of the Inter-institutional agreement.

4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

Annual requirements	2007	2008	2009	2010	2011	2012	2013	Total
Total number of human resources								

5. CHARACTERISTICS AND OBJECTIVES

Details of the context of the proposal are required in the Explanatory Memorandum. This section of the Legislative Financial Statement should include the following specific complementary information:

5.1. Needs to be met in the short or long term:

In line with the provisions in the decision establishing the programme, this Agreement lays down conditions, notably as concerns Switzerland's financial contribution, adaptations to be made to Switzerland's broadcasting regulatory framework, and other practical arrangements for participating in the programme.

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy:

The aim of opening up the MEDIA 2007 Programme to Switzerland is to bring about synergies and mutual benefit to partners in Switzerland, Member States of the Community, as well as other participating countries, with a view to expand and multiply the chances for successful achievement of the aims and objectives set in the decision establishing the programme. Accordingly, objectives and target population are the same as those of the programme.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

– Choice of ways and means of Switzerland's participation has been modelled on the tried and tested terms and conditions used previously for EFTA/EEA countries and candidate countries. Specific provisions have been made to adapt them to the particular conditions of Switzerland, since it constitutes the first case of European country neither member of the EEA nor having a pre-accession strategy that will take part in this programme. Projects and initiatives submitted by participants from Switzerland shall be subject to the same conditions, rules and procedures pertaining to this programme as are applied to Member States, regarding in particular the submission, assessment, and selection of applications and projects, the responsibilities of the national structures in the implementation of the programme, and the activities related to the monitoring of their participation in the programme. The Agreement will be managed by a joint committee, composed of representatives of Switzerland and the Community.

– Main factors of uncertainty which could affect the specific results of the operation Since projects will be selected according to quality criteria, it will only be possible to measure the real impact on the basis of Swiss firms' and institutions' capacity to respond to the calls for proposal launched by the Commission under the programme.

5.4. Method of Implementation (indicative)

Show below the method(s)[16] chosen for the implementation of the action.

X Centralised Management

× Directly by the Commission

☒ Indirectly by delegation to:

☒ Executive Agencies

☐ Bodies set up by the Community as referred to in Art. 185 of the Financial Regulation

☐ National public-sector bodies/bodies with public-service mission.

☐ **Shared or decentralised management**

☐ With Member States

☐ With third countries

☐ **Joint management with international organisations** (*please specify*)

Relevant comments:

6. MONITORING AND EVALUATION

6.1. Monitoring system

(a) Performance indicators

– Standard provisions in the programme.

(b) Gathering of information:

– Standard provisions in the programme.

[16] If more than one method is indicated please provide additional details in the "Relevant comments" section of this point.

(c) Overall evaluation:

– Standard provisions in the programme.

6.2. Evaluation

Evaluation procedures included in the decisions establishing the programme will also cover activities involving Swiss partners.

7. ANTI-FRAUD MEASURES

All the Commission's contracts, grant agreement decisions and other legal commitments provide for on-the-spot checks by the Commission and Court of Auditors. Among other things, the beneficiaries of the operations are obliged to file reports and financial statements. These are analysed from the point of view of their content and the eligibility of the expenditure in line with the objective of Community financing.

The anti-fraud provisions of the basic budget headings apply to this heading too when adapted to the case of Switzerland.

Annex III of the Agreement lays out in detail the provisions pertaining to financial control of Swiss participants in the MEDIA 2007 programme.

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost: NA

Commitment appropriations in EUR million (to 3 decimal places)

(Headings of Objectives, actions and outputs should be provided)	**Type of output**	**Av. cost**	**Year n**		**Year n+1**		**Year n+2**		**Year n+3**		**Year n+4**		**Year n+5 and later**		**TOTAL**	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE No.1[17]																
Action1																
Output 1																
Output 2																
Action 2																
Output 1																
Sub-total Objective 1																
OPERATIONAL OBJECTIVE No.2																
Action 1																
Output 1																
Sub-total Objective 2																

[17] As described under Section 5.3.

OPERATIONAL OBJECTIVE No. n																
Sub-total Objective n																
TOTAL COST																

8.2. Administrative Expenditure

8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (**number of posts/FTEs**)							
		2007	2008	2009	2010	2011	2012	2013	Total
Officials or temporary staff[18] (XX 01 01)	A*/ AD								
	B*, C*/ AST								
Staff financed[19] by Art. XX 01 02		0	0	0	0	0	0	0	
Other staff financed[20] by Art. XX 01 04/05		0	0	0	0	0	0	0	
TOTAL									

8.2.2. Description of tasks deriving from the action

Management and implementation of the participation of Switzerland in the MEDIA 2007 programme will entail regular missions by EC and Swiss experts and officials.

8.2.3. Sources of human resources (statutory)

(When more than one source is stated, please indicate the number of posts originating from each of the sources)

– Posts currently allocated to the management of the programme to be replaced or extended

– Posts pre-allocated within the APS/PDB exercise for year n

– Posts to be requested in the next APS/PDB procedure

– Posts to be redeployed using existing resources within the managing service (internal redeployment)

– Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

[18] Cost of which is NOT covered by the reference amount.
[19] Cost of which is NOT covered by the reference amount.
[20] Cost of which is included within the reference amount.

8.2.4. Other administrative expenditure included in reference amount (09 01 04 05 – MEDIA 2007 Expenditure on administrative management, and 09 01 04 30 Executive Agency for Education, Audiovisual and Culture)

€

Budget line (number and heading)	2007	2008	2009	2010	2011	2012	2013	TOTAL
1. Technical and administrative assistance (including related staff costs)								
Executive agencies (09 01 04 30)	126 000	126 000	126 000	126 000	126 000	126 000	126 000	**882 000**
Other technical and administrative assistance								
(09 01 04 05) Missions	12 360	12 360	12 360	12 360	12 360	12 360	12 360	**86 520**
(09 01 04 05) Meetings & Conferences	14 420	14 420	14 420	14 420	14 420	14 420	14 420	**100 940**
(09 01 04 05) Committees[21]	24 720	24 720	24 720	24 720	24 720	24 720	24 720	**173 040**
Total Technical and administrative assistance	177 500	177 500	177 500	177 500	177 500	177 500	177 500	**1 242 500**

Calculation - ***Other administrative expenditure included in reference amount***

126 000	2 Contractual Agents at average 63 000
12 360	8 missions 2-days

[21] Programme management committees and eventually project selection committees.

24 720	Travel allowance and subsistence allowance for 16 participants in two-days meetings
(8 240+ 6 180) =14 420	Travel allowance and subsistence allowance for 3 participants in 2 two-day meetings Travel allowance and subsistence allowance for 2 Swiss experts participating in 2 meetings of 5 days in average

8.2.5. Financial cost of human resources and associated costs not included in the reference amount

€

Type of human resources	2007	2008	2009	2010	2011	2012	2013	Total
Officials and temporary staff (XX 01 01)								
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)	0	0	0	0	0	0	0	0
Total cost of Human Resources and associated costs (NOT in reference amount)								

Calculation– ***Officials and Temporary agents - NA***

Reference should be made to Point 8.2.1, if applicable

Calculation– ***Staff financed under Art. XX 01 02 - NA***

Reference should be made to Point 8.2.1, if applicable

8.2.6. Other administrative expenditure not included in reference amount

€

	2007	2008	2009	2010	2011	2012	2013	TOTAL
XX 01 02 11 01 – Missions								
XX 01 02 11 02 – Meetings & Conferences								
XX 01 02 11 03 – Committees[22]								

[22] Specify the type of committee and the group to which it belongs.

XX 01 02 11 04 – Studies & consultations								
XX 01 02 11 05 - Information systems								
2. Total Other Management Expenditure (XX 01 02 11)								
3. Other expenditure of an administrative nature (specify including reference to budget line)								
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)	0	0	0	0	0	0	0	

Calculation - ***Other administrative expenditure <u>not</u> included in reference amount***

Annex
Method of calculating the effect on revenue

Switzerland's contribution to the budget of the MEDIA 2007 programme takes into account two elements:

– the foreseeable operational costs, which have been calculated on the basis of the programme budgets and the country's estimated take-up capacity,

– the foreseeable administrative costs, corresponding to the meetings, missions and one temporary A staff.

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