BRIEFING
EU Legislation in Progress
2021-2027 MFF

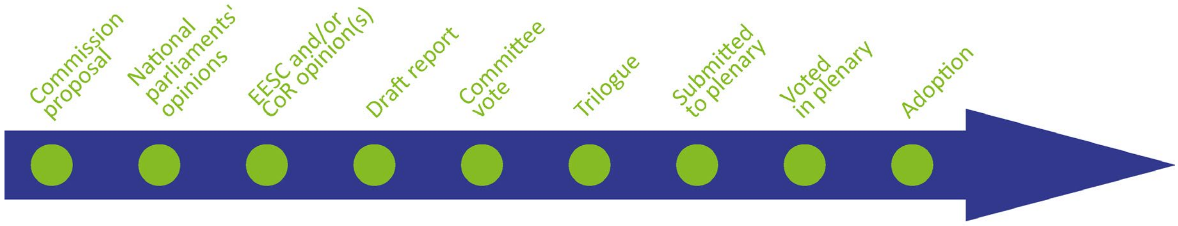
European Parliament

Brexit Adjustment Reserve

OVERVIEW

As part of the preparations for the United Kingdom's withdrawal from the European Union, the European Council agreed in July 2020 to create a Brexit adjustment reserve within the special instruments outside the budget ceilings of the European Union's multiannual financial framework, with a budget of €5 billion to counter unforeseen and adverse consequences in Member States and sectors that are most affected. The Commission adopted a proposal for a regulation on the Brexit adjustment reserve on 25 December 2020. The reserve will support public expenditure incurred by Member States from 1 January 2020 to 31 December 2023 for eligible measures, which include support for affected sectors, training, and new border facilities. Funding will be available for all Member States, distributed in several allocation tranches, with 80 % of the resources due to be allocated to Member States in the form of pre-financing, to be disbursed in 2021, 2022 and 2023, and the remainder to be made available in 2025, where applicable. Each country's allocation is calculated based on the importance of its trade with the UK and, where applicable, its dependence on fisheries in UK waters and the size of the population of maritime border regions with the UK. Following the agreement on the final text between Council and Parliament on 17 June 2021, Parliament adopted its first-reading position on 15 September 2021, with the act adopted by Council on 28 September. The regulation was published in the Official Journal on 8 October 2021.

Proposal for a regulation of the European Parliament and of the Council establishing the Brexit adjustment reserve		
Committee responsible:	Regional Development (REGI)	COM(2020) 854 final 25.12.2020
Rapporteur:	Pascal Arimont (EPP, Belgium)	2020/0380 (COD)
Shadow rapporteurs:	Tsvetelina Penkova (S&D, Bulgaria) Irène Tolleret (Renew, France) François Alfonsi (Greens/EFA, France) Raffaele Fitto (ECR, italy) Martina Michels (The Left, Germany)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
Procedure completed.	Regulation (EU) 2021/1755 OJ L 357, 8.10.2021, pp.1-26	



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Introduction

While the sealing of the EU-UK Trade and Cooperation Agreement on 24 December 2020, one week before the end of the transition period, avoided the spectre of a no-deal Brexit, wide-sweeping changes nonetheless came into place on 1 January 2021, marking a watershed moment in relations between the United Kingdom (UK) and the European Union (EU). With the UK having left the EU customs union and the single market, bringing an end to the free movement of people, goods, services and capital, the UK and the EU now constitute two separate regulatory and legal regimes.

This has created new obstacles to trade, mobility and exchange with the UK, with the loss of barrier-free access to the UK market affecting many businesses, citizens and public administrations across the EU. Adopted on 25 December 2020, the proposed regulation on the Brexit adjustment reserve seeks to address this issue by providing financial support for Member States, regions and economic sectors to help cover the costs incurred in connection with the UK's withdrawal from the EU.

Existing situation

The close economic, social and cultural ties that have developed between the UK and the EU over the last few decades have led to a high degree of interdependence between the countries of the EU and the UK, particularly in the area of trade. The new changes introduced on 1 January 2021 mean that many businesses across the EU are being forced to adjust to these new circumstances, entailing significant costs for their everyday operations. These additional burdens are impacting on companies doing business with the UK across a wide range of sectors, with the fisheries sector particularly affected following the introduction of reduced fishing rights for EU vessels in UK waters. In addition, in those Member States that serve as the main entry and exit points for UK trade, public authorities have been forced to create new infrastructure for customs, indirect taxation or border inspection facilities, entailing significant investments, particularly in terms of human resources. All this is leading to a surge in public expenditure, with several Member States also launching employment support measures to help those economic sectors most affected.

Yet while the 2021-2027 multiannual financial framework, Next Generation EU and other initiatives such as the post-2020 cohesion policy funds, Just Transition Fund and the Recovery and Resilience Facility focus largely on helping Member States address the impact of the coronavirus crisis and making their economies more resilient and better prepared for the future, there is at present no instrument that provides Member States with support that is linked directly to dealing with the economic, social and territorial impact of the UK's departure from the EU. To help address this gap, the Brexit adjustment reserve will concentrate specifically on the direct effect on the Member States of the UK's withdrawal from the EU. Building on the work carried out by the EU institutions to help Member States and their national administrations prepare for the end of the transition period, the proposed reserve draws on the experiences of the EU Solidarity Fund and cohesion policy based on a framework that takes account of the unprecedented nature of the UK's departure and the need to ensure that Member States can address the related challenges in a swift and flexible manner. The reserve introduced under the proposal will provide support for Member States, regions and economic sectors in the form of funding (€5 billion in 2018 prices) to help cover the cost of additional public expenditure borne by Member States in connection with measures relating to the UK's departure from the EU.

Parliament's starting position

The European Parliament has adopted a number of resolutions in recent years calling for action to support those sectors and businesses affected by the UK's withdrawal from the EU. In light of the uncertainties created by Brexit, in its resolution of 14 March 2018 on the framework of the future EU–UK relationship, Parliament called for measures to target a maximum number of sectors and people concerned. These should cover the preparedness of SMEs and small operators trading with the UK, such as agri-food producers and producers of fisheries products, which, for the first time ever, would be confronted with export procedures and certain requirements, also of a sanitary and phytosanitary nature. Welcoming the European Commission's proposals set out in its communication on finalising preparations for the UK's withdrawal from the EU, in its resolution of 18 September 2019 on the state of play of the UK's withdrawal from the EU, Parliament committed itself to dealing swiftly with the proposals and to ensuring that the burdens arising from administrative procedures were kept to a minimum, particularly in terms of providing small and medium-sized enterprises with financial assistance.

Council and European Council starting position

The European Council conclusions of 17-21 July 2020 provided for the creation of a Brexit adjustment reserve, within the special instruments outside the budget ceilings of the EU's multiannual financial framework, to counter unforeseen and adverse consequences in the Member States and sectors worst affected. The European Council invited the Commission to present a proposal by November 2020.

Preparation of the proposal

Given the urgency of the proposal, no stakeholder consultation was organised, but a number of meetings were held with representatives of the Member States as part of the preparation of the proposal. For the same reason, no impact assessment was carried out. Nonetheless, as outlined in the text, the proposal has taken account of a number of recent economic analyses such as the European Commission's autumn 2020 economic forecast and research carried out by the European Central Bank.

The changes the proposal would bring

Objective

According to article 3 of the proposal for a regulation, the Brexit adjustment reserve will 'provide support to counter the adverse consequences of the withdrawal of the United Kingdom from the Union in Member States, regions and sectors, in particular those that are worst affected by that withdrawal, and to mitigate the related impact on economic, social and territorial cohesion'.

Eligibility

All Member States will be eligible for support from the reserve. As set out in the proposal, use of the reserve will only be allowed to support public expenditure directly related to measures taken by Member States to address the adverse impact of the UK's withdrawal from the EU. More specifically:

(a) measures to support the most affected economic sectors, including businesses and local communities and, in particular, those dependent on fishing activities in UK waters;

(b) measures to support employment, including through short-time work schemes, re-skilling and training in affected sectors; and

(c) measures to ensure the functioning of border, customs, sanitary and phytosanitary, security and fisheries controls, certification and authorisation regimes, as well as communication, information and awareness-raising for citizens and businesses.

The proposal also identifies expenditure that is not eligible for support, with value added tax, technical assistance and expenditure supporting relocation excluded from support under the reserve, including where the contribution from the reserve represents state aid. Expenditure will be considered eligible if it is incurred and paid during the 30-month period from 1 July 2020 to 31 December 2022 for measures carried out in the Member State in question or for its benefit.

Financial management

Financed as a special instrument outside of the budget ceilings of the EU's multiannual financial framework, the reserve will be activated in two rounds of allocation, with a total amount of €5 billion available (€5 370 994 000 in current prices). The first round will be allocated in 2021, taking the form of a substantial pre-financing payment of €4 billion (€4 244 832 000 in current prices), with the remaining amount to be allocated during a second round in 2024 for the payment of an additional contribution from the reserve. The financial contribution from the reserve to a Member State will be implemented under shared management, with the contribution used to reimburse eligible costs actually incurred and paid by Member States in implementing measures eligible for support.

Pre-financing

The allocation method used to calculate the pre-financing amount seeks to reflect the expected impact of the end of the transition period on each Member State's economy by taking account of the importance of trade with the UK and the importance of fisheries in the UK's exclusive economic zone (EEZ), based on reliable and official statistics. Each Member State's share of the pre-financing amount available under the reserve is calculated as the sum of a factor linked to the fish caught in the waters that belong to the UK EEZ and a factor linked to trade with the UK. The factor linked to fish caught in the UK EEZ will be used to allocate €600 million while the factor linked to trade is the basis for the allocation of the remaining €3 400 million. The factor linked to fisheries is determined based on each Member State's share of the total value of the fish caught in the UK EEZ. This share is then adjusted by multiplying it by the Member State's 'index of dependency', which represents the value of fish caught in the UK EEZ as a percentage of the total value of fish caught by that Member State, expressed as an index of the EU average. The factor linked to trade, meanwhile, is calculated by taking each Member State's share of total EU trade with the UK and multiplying it by the Member State's index of dependency, determined on the basis of the sum of trade flows with the UK expressed as a percentage of the Member State's gross domestic product (GDP) and subsequently expressed as an index of the EU average. This figure is then adjusted by dividing it by the Member State's gross national income (GNI) per capita, expressed as a percentage of the EU's average GNI per capita.

Application for a financial contribution from the reserve

Each Member State must submit an application to the European Commission for a financial contribution from the reserve by 30 September 2023, providing information on the total public expenditure incurred and paid by the Member State from 1 July 2020 to 31 December 2022 and detailing how the pre-financing amount was used. The application will be accompanied by an implementation report, which will, among other things, identify the regions, areas and sectors most affected and include a description of the measures taken to counter the adverse consequences of the UK's withdrawal from the Union, as well as a justification of the eligibility of the expenditure incurred and paid and its direct link to the UK's departure from the EU. The supporting documents will also include a management declaration and an independent audit opinion.

Assessment by the Commission of the application for a financial contribution, clearance of the pre-financing and calculation of additional amounts

The Commission will assess the application by examining the eligibility and accuracy of the expenditure declared, its link to the end of the transition period and its economic impact, the measures put in place to avoid double financing, and the supporting documents. The assessment will identify the total amount of eligible public expenditure and establish whether any additional amounts are due to the Member State or whether any amounts need to be recovered by way of an implementing act.

Where the eligible public expenditure exceeds both the amount paid in pre-financing and 0.06 % of the nominal GNI of 2021 of the Member State in question, an additional amount will be due to the Member State from the second allocation tranche. Any amounts recovered or carried over from the pre-financing amount may be used for the reimbursement of additional expenditure by Member States. The Commission will clear the pre-financing amount and pay any additional amount due within 60 days of the adoption of the relevant implementing act.

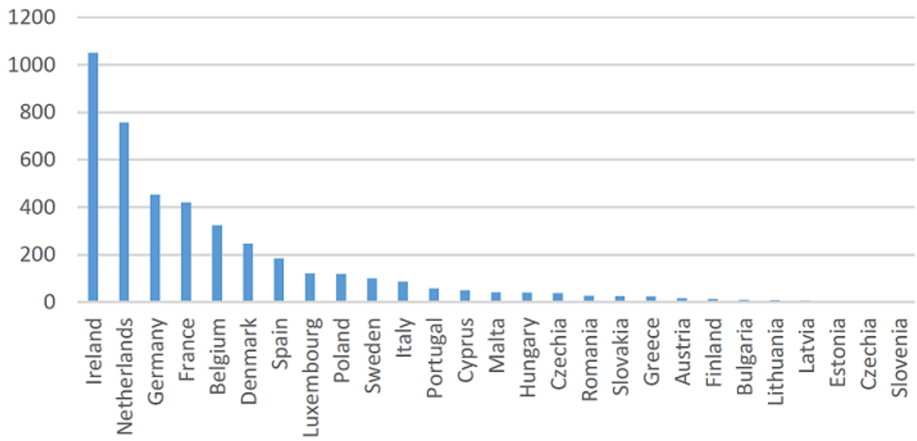
Management and control

Member States will be required to take all necessary measures to protect the financial interests of the Union. This involves designating a body responsible for the management of the financial contribution from the reserve and an independent audit body, and also setting up management and control systems for the reserve in accordance with the principles of sound financial management, including systems that aim to prevent, detect and correct irregularities and fraud.

Reporting

The Commission will carry out an evaluation to examine the effectiveness, efficiency, relevance, coherence and EU added value of the reserve by 30 June 2026. In addition, by 30 June 2027, the Commission must submit a report to the European Parliament and to Council on the implementation of the reserve.

Figure 1 – Allocation under the Brexit adjustment reserve in 2021, in the form of pre-financing (€ million)



Source: European Commission.

On 12 January 2021, the European Commission published a detailed breakdown by Member State of the pre-financing allocation under the Brexit Adjustment Reserve in 2021. This is set out in Figure 1, which shows the total amount for each country, covering the allocation for trade with the UK and for fish caught in UK waters. Ireland will be by far the largest beneficiary in absolute terms, receiving a total allocation of €1.051 billion, followed by the Netherlands, Germany, France and Belgium. Eleven Member States will receive an allocation for fish caught in the UK EEZ: Belgium, Denmark, Germany, Ireland, Spain, France, Lithuania, the Netherlands, Poland, Portugal and Sweden. Denmark will receive the largest amount, €147.5 million, followed by the Netherlands, France and Ireland, at €130 million, €108 million and €106 million respectively, with these four countries alone accounting for over 80 % of the budget available.

Advisory committees

In its opinion adopted on 19 March 2021, the European Committee of the Regions (CoR) warmly welcomes the proposed establishment of a Brexit adjustment reserve and the flexibility given to the Member States to design measures that best meet their needs. In particular, it calls for local and regional authorities to be placed at the heart of the establishment of this new financial instrument.

It recommends introducing criteria that take account of the regional intensity of the impact and ensure a fair distribution of the resources, based on the size of the economic impact on each region. This involvement on the part of local and regional authorities will help to target needs and implement the Brexit adjustment reserve effectively. The CoR also calls for the additional amounts made available in the second stage under article 11 to be increased by €1 billion in order to respond more effectively to medium-term needs, and calls for the eligibility period to be extended to June 2026, noting that there is no provision for resources to mitigate the impact of Brexit from 2023 on. Highlighting the exposure of the fisheries and seafood sector, for which there will be a transition period of five and a half years, it stresses that the sector is facing a direct threat to an entire segment of its activities, which requires an impact assessment reflecting regional realities as closely as possible. In addition, the CoR finds it regrettable that the Commission's proposal does not reflect the partnership principle applicable to cohesion policy since it does not provide any guarantees regarding the role of local and regional authorities in governance. It also highlights the exposure of regions due to loss of trading opportunities with the UK, which affects a wide range of sectors and has a cross value-chain effect, for example in tourism, hospitality and agri-food, translating to job losses on the ground.

Adopted on 24 February 2021, the European Economic and Social Committee's opinion on the Brexit adjustment reserve welcomes the creation of the Brexit adjustment reserve (the 'reserve') within the special instruments outside of the budget ceilings of the EU's multiannual financial framework (MFF). It considers that cohesion and solidarity between Member States are fundamental EU values and appreciates the retroactive application of the reserve going back to July 2020. The EESC suggests that the fisheries sector should have a completely separately designed reserve that will support this sector only. It considers that special attention should be paid to other sectors, such as tourism and agriculture, for example, with the Committee noting that appropriate infrastructure investments and support for EU citizens who are returning to their home countries after Brexit should also be considered. It calls on all Member States to act responsibly and direct the available funds towards the regions, companies, workers and citizens that need them the most. The EESC also believes that the eligibility period could be extended by two more years to make sure that the Member States have adequate time to make use of their share of the reserve. It strongly believes that the bulk of the reserve should be allocated to supporting employment and economic activities and asks for measures to be tailored to support SMEs, which are particularly affected by the newly introduced customs procedures, regulatory burdens and rising transport costs. The EESC also considers that the €5.4 billion reserve will not be sufficient to mitigate the negative effects of Brexit and asks the co-legislators to increase the proposed ceiling.

National parliaments

The proposal for a regulation was submitted to national parliaments, with the subsidiarity deadline of 11 March 2021. The Spanish Parliament's EU Affairs Committee issued an opinion dated 9 March 2021, which declared that the proposal was in accordance with the principle of subsidiarity established in the Treaty on European Union. The Portuguese Parliament's Financial Affairs Committee issued an opinion on 10 February 2021, which stated that the proposal did not violate the principle of subsidiarity, as the objective to be achieved would be more effectively achieved through action by the Union. An opinion of 2 March 2021 of the Portuguese Parliament's EU Affairs Committee took the view that the proposal upheld the principles of subsidiarity and proportionality, as its objective would be more effectively achieved through action by the Union, and that the proposal did not go beyond what was necessary for this purpose.

Stakeholder views[1]

In a letter sent to EU Chief Negotiator Michel Barnier on 16 December 2020, the European Trade Union Confederation highlighted the insufficient nature of the amount allocated for the Brexit Adjustment Reserve in light of the Brexit-related challenges facing the EU in terms of lost jobs and revenue. It called for a strong increase in this allocation and for assurances that the funds in question would reach workers rather than companies alone, and be accompanied by support for employment. Following its political declaration of December 2020, which called on the Commission to put local and regional governments 'in the driving seat' when it came to implementation, and to ensure that funds were deployed quickly and efficiently, focusing on where they were most needed, the Conference of Peripheral and Maritime Regions published a preliminary assessment of the Brexit adjustment reserve proposal in January 2021. While noting that the reserve would seem to have a concrete territorial focus and incorporate a shared governance approach, the CPMR stressed that owing to a lack of fund allocation at territorial level, national governments would have some discretion regarding the distribution of funds, highlighting also a lack of clarity regarding the involvement of local and regional authorities in terms of governance. It put forward a number recommendations in this light, suggesting, inter alia, territorial earmarking in the form of minimum targets for the areas most affected, the introduction of a provision requiring Member States to involve local and regional authorities from the affected areas in selecting measures to be supported under the reserve, and highlighting the need to consider whether the reserve should cover a longer time period, possibly the whole programming period.

The European Commission launched a public consultation on the proposal for a regulation on the Brexit adjustment reserve on 24 February 2021; it was open for a period of eight weeks, with a total of 17 contributions received. Calling for specific earmarking for the private sector, Eurochambres, the Association of European Chambers of Commerce and Industry, urges greater flexibility when it comes to the term 'public expenditure' so that the proposed regulation can ensure that funding is used to support the private sector. Noting that there is no legal basis for the payment of retroactive company subsidies in many Member States, Eurochambres also calls for the addition of the words 'including retroactive compensatory grants' under article 5(1)(a) of the proposed regulation to provide a firm legal basis, a point also raised by SME United, the Association of Crafts and SMEs in Europe. While expressing its support for the allocation method proposed by the Commission, SME United stresses the need to target SMEs with specific measures and extend the proposed eligibility period by two years. The European Sea Ports Association, meanwhile, considers that transport in general and maritime ports in particular should be explicitly mentioned as eligible sectors under the regulation, and argues that adaptive measures taken by European ports before 1 July 2020 to manage the anticipated effects of Brexit should be eligible under the Brexit adjustment reserve. Noting that companies had already begun preparing for Brexit in 2018 and 2019, the Dutch Association for Transport and Logistics calls for the start date of the eligibility period to be brought forward to mid-2019 while France's Confederation of Small and Medium Enterprises underlines the importance of taking account of the needs of SMEs, calling for the rollout of specific support measures for SMEs, the balanced distribution of funds between public institutions and businesses and an increase in the reserve's budget to €6 billion.

A number of regional authorities also contributed to the public consultation. Highlighting that Brexit will also have an impact on sectors such as tourism and the agricultural export sector, the government of the Canary Islands, for instance, calls for an additional allocation factor to take into account the high dependence of some territories on economic sectors heavily affected by Brexit, such as island and outermost regions dependent on tourism, and urges Member States to take into account the relative importance of trade flows in each region when designing support measures. Several French regions also participated in the public consultation. The Grand Est and Ile-de-France regions stress that it is vital for Member States to involve the regional level and take account of the needs of the sectors most affected when allocating resources, with France's northern coastal *départements* noting that they should be able to access this fund to enable them to continue to roll out long-term projects to transform and redevelop their economic sectors and address their accessibility problems.

Court of Auditors

As the legal basis for the Commission proposal, Article 322(1)(a) of the Treaty on the Functioning of the European Union, requires consultation of the Court of Auditors, the European Parliament and the Council invited the Court of Auditors to issue an opinion on the proposal. Adopted on 25 February 2021, the Court of Auditors' opinion considers that the proposal's architecture would meet the objective of providing Member States with flexibility, making significant amounts of the reserve available through pre-financing so as to enable countries to respond quickly. It notes, however, that this flexibility, especially the lack of any requirement for Member States to inform the Commission which regions, areas and sectors may be most affected and to identify which measures will be funded before they receive pre-financing under the Brexit adjustment reserve, entails a number of risks. More specifically, the opinion argues that the reserve could be used to support measures that are not actually eligible, noting also that the selected measures could prove to be sub-optimal and therefore fail to deliver on their objectives. The Court of Auditors also makes a number of more specific comments regarding the content of the proposal. While emphasising that the chosen eligibility period should facilitate the use of the reserve to support preparedness measures and help limit the economic impact of Brexit, the Court of Auditors argues that the proposal does not explain clearly why this eligibility period was chosen or examine whether it is suitable in light of the Brexit adjustment reserve's objectives. When it comes to the pre-financing calculation, the Court of Auditors considers that there is a risk that the allocation method set out in the proposal may not truly reflect the exposure of a Member State's economy, given the numerous uncertainties still relating to the impact of Brexit, including the transfer of certain economic sectors from the UK to the EU. On the issue of reporting and evaluation, the opinion raises questions as to the exclusive use of output indicators, which, it considers, can provide only limited information about the extent to which a measure actually helped to address the negative impact of Brexit.

Legislative process

The European Commission adopted the legislative proposal on 25 December 2020. In Council, the proposal was examined by the Working Party on Structural Measures, with a first meeting taking place on this topic on 26 January 2021. In light of the differences existing among the Member States, a first presidency compromise proposal was examined at the meeting on 5 February 2021, followed by a second presidency compromise proposal, discussed at the meeting on 19 February, with the meeting also including an exchange of views on the allocation method. Examination of the file continued in the Working Party on Structural Measures during the months of March and April, with Coreper agreeing on a mandate for negotiations with the European Parliament on the Brexit Adjustment Reserve on 29 April 2021.

In the European Parliament, the file was allocated to the Committee on Regional Development (REGI) and the rapporteur is Pascal Arimont (EPP), with the Budgets and Fisheries Committees appointed as associated committees under Rule 57 of Parliament's Rules of Procedure. At the REGI meeting on 14 January 2021, the European Commission representative presented the main elements of the proposal and an exchange of views took place. MEPs expressed support for the Brexit adjustment reserve, welcoming its simple and flexible approach, and agreed on the need to move swiftly to ensure that funding can reach those in need as quickly as possible. They raised questions however about the role of local and regional authorities in the process. The rapporteur's draft report was published on 2 March 2021 and presented in the REGI committee on 16 March 2021. The amendments prepared by the rapporteur introduced a number of changes to the text of the proposal. These include moving forward the start date of the reference period to 1 January 2019, earmarking the pre-financing amounts linked to fisheries to ensure that Member States allocate, as a minimum, the share of funding in question to businesses and communities dependent on fisheries, and providing assistance for Member States to help them prepare the measures to be supported. The draft report also proposed that the Brexit adjustment reserve should support expenditure relating to measures that support SMEs and the re-integration of EU nationals who have left the UK as a result of Brexit, and it removed the reference to 'public' expenditure so that all expenditure relating to such measures is covered. Other changes included introducing a requirement for Member States to establish a multi-level dialogue with social partners, civil society and local and regional authorities in the most affected areas, with the draft report also stressing that the creation of new structures should be avoided and that funding should not be used to support sectors that have profited from Brexit such as the finance sector. The rapporteur supports the overall structure of the reserve, including the large pre-financing share and the principle of the second tranche, and considers that the allocation method should not be revised.

During the exchange of views on 16 March 2021, there was agreement among MEPs regarding the need to move the start date of the eligibility period forward to 1 January 2019 and to extend it until 31 December 2023, with many MEPs also expressing support for a multi-level dialogue involving local and regional authorities and the exclusion of financial services from the reserve. The allocation method remained a contentious issue, however. Some MEPs argued that the distribution key for fisheries, which was based on the share of EEZ catches in a Member State's total catch, would lead to the differentiated treatment of fishermen based on their country of origin, with others highlighting that the distribution key for trade, which compares a country's UK-related trade with its GDP, would favour Member States with significant port activity. The distribution threshold set for the additional amount – public spending exceeding 0.06 % of national GDP – was also criticised, with some MEPs taking the view that this could block access to this funding for many Member States, calling for the same criteria to be used for pre-financing and the second tranche. A third exchange of views took place at the REGI committee meeting on 22 April 2021. Noting that those countries most affected by Brexit should receive the most support, the rapporteur argued that the allocations and distribution key under the first tranche should remain unchanged but stressed that he was open to reaching a compromise on the second tranche, as many of the amendments related specifically to this point. There was general support among MEPs for maintaining the allocations under the first tranche and for ensuring the swift distribution of funds, with some MEPs concerned that reopening the issue of the budget allocation could delay the whole process, preventing the delivery of funding in 2021. Differences of opinion remained on issues such as extending the eligibility period, blocking amounts for technical assistance and earmarking for specific sectors, with some MEPs calling for a change in the allocation method to ensure no fishermen lose out.

Adopted on 10 May 2021, the opinion of the Committee on Budgets suggests extending the eligibility period from 1 January 2020 until 31 December 2023, as well as the timeframe when the pre-financing amount of €4 billion (2018 prices) will be made available, with €1.6 billion to be allocated in 2021, €1.2 billion in 2022 and €1.2 billion in 2023. It also proposes that the additional amount of €1 billion should only become available in 2025, and includes measures to support the re-integration of EU citizens as well as technical assistance for bodies implementing the reserve as eligible for support under the Brexit adjustment reserve. In particular, it puts forward a new allocation method for resources under the reserve, to be determined as the sum of a factor linked to fish caught in the UK EEZ, a factor linked to trade with the UK and GDP, a factor linked to the population of maritime border regions and a factor linked to trade with the UK in the internal market.

The opinion adopted by the Committee on Fisheries on 10 May 2021 calls for the extension of the eligibility period until 30 June 2026 in line with the quota reduction timetable for the fisheries sector, and supports the exclusion of the financial sector from the allocation key as well as the earmarking of minimum support for the fisheries sector. Other changes include the recognition of expenditure relating to support for the temporary or permanent cessation of fishing activities as eligible under the reserve and the development by the Commission of a method for allocating additional funds that takes into account the extension to 30 June 2026 of the eligibility period for pre-financing for the fisheries sector.

Two sets of amendments were tabled to the draft report, on 26 March and 31 March 2021, numbering a total of 321 amendments to the Commission proposal.

With the adoption of its report in committee on 25 May 2021, the REGI committee put forward a number of important amendments to the Commission's proposal.

Compared to the original proposal, the report extended both the eligiblity period, which would apply from 1 July 2019 to 31 December 2023, as well as the deadline for submitting an application for a financial contribution from the reserve (30 June 2024), and recommended that the pre-financing amount of €4 billion should be made available and paid in two instalments of €2 billion in 2021 and €2 billion in 2022, with the remaining €1 billion to be paid in 2025. The report recommended that the financial contribution from the reserve should, in addition, support measures taken by Member States to support private and public businesses, in particular SMEs and self-employed people, measures to support regional and local organisations and communities dependent on fishing activities in UK waters, measures to suppport job creation and protection, and to facilitate the reintegration of EU citizens who have left the UK as a result of Brexit. Lastly, it proposed that measures that mitigate the disruption caused by Brexit for cross-border cooperation programmes should also be eligible for support, recommending, meanwhile, that the financial and banking sector be excluded from support. The committee also proposed that each Member State would be able to use up to 2.5 % of its allocation from the reserve for technical assistance, while those countries that receive resources under the BAR in respect of fisheries should allocate at least 7 % of their national allocation to local and regional communities dependent on fishing, in particular the small-scale fisheries sector. When it comes to the payment of the additional amount, the report removed the threshold of 0.06 % of the nominal GNI of a Member State, and shortened the delay for the payment of the additional amount from 60 to 30 days after the adoption of the relevant implementing act.

The report also proposed a new allocation method covering all resources under the reserve. This was determined as the sum of a factor linked to fish caught in the UK EEZ, to be used to allocate €600 million, a factor linked to trade with the UK, to be used to allocate €4 150 million, and a factor linked to the population of maritime border regions with the UK, used to allocate €250 million.

The committee's decision to enter into interinstitutional negotiations was confirmed by plenary on 9 June 2021, pursuant to Rule 71 of the EP's Rules of Procecure, paving the way for the launch of interinstitutional negotiations with the report setting out Parliament's negotiating mandate. A total of five technical meetings took place, on 9, 10, 11, 14 and 15 June 2021. One political trilogue meeting was held on 17 June 2021, resulting in a political agreement between Parliament and Council. A further technical meeting was held on 18 June 2021 in order to introduce the necessary modificiations and alignments between the compromises achieved and the recitals and annexes of the regulation on the Brexit Adjustment Reserve.

The compomise text agreed between Parliament and the Council provides that the total budget of €5 billion, rather than just the pre-financing amount, will be distributed using the allocation method. In keeping with the EP's position and Council's negotiating mandate, the allocation method will be determined as the sum of a factor linked to fish caught in the UK EEZ (used to allocate €600 million) and a factor linked to trade with the UK (for the allocation of €4 150 million), and will also factor in the size of the population of maritime border regions close to the UK (to allocate €250 million).

In line with Council's negotiating mandate, the compromise text fixes the eligibility period as being from 1 January 2020 to 31 December 2023, six months shorter than Parliament's proposal, and extends the deadline for submitting an application for a financial contribution from the reserve until 30 September 2024, with both changes called for in Council's negotiating mandate. Also reflecting Council's position, the agreed text establishes that the pre-financing amount will be paid over three years rather than the two years called for by Parlament, with €1.6 billion to be made available and paid in 2021, and an amount of €1.2 billion to be made available and paid in 2022 and in 2023.

When it comes to the measures eligible for support under the reserve, the final text extends the scope of support to include businesses and local communities and organisations, including small-scale coastal fisheries, dependent on fishing activities in all UK waters, in the waters of UK territories with special status or in the waters covered by fisheries agreements with coastal states where fishing opportunities have been reduced due to the UK's withdrawal, changes that were all specifically called for by Parliament.

The compromise text retains the amendments by Parliament that introduce measures to support job creation and protection in adversely affected sectors, and that support the reintegration of EU citizens who left the UK as a result of Brexit, with the latter also in line with Council's position. The text does not, however, take account of the EP's calls for measures to support businesses, in particular SMEs and self-employed people adversely affected by the withdrawal, or to mitigate the disruption caused by Brexit for cross-border cooperation programmes, with Parliament's proposal to exclude financial and banking sectors from support also not included in the final text. The compromise text also provides that 2.5 % of the contribution from the reserve for each Member State shall be paid as technical assistance, reflecting both Parliament's position and Council's negotiating mandate.

In particular, Parliament's call for compulsory earmarking for the fisheries sector was also taken into account in the final agreement, with the compromise text establishing that Member States that receive more than €10 million in fisheries allocation shall spend at least 50 % of their fisheries-related allocation or 7 % of their total allocated amount (whichever is lower) to support local and regional coastal communities including the fisheries sector, and in particular the small-scale fisheries sector dependent on fishing. The agreed text also reflects Parliament's call to shorten the deadline for the payment of the pre-financing amount and any additional amount due, from 60 to 30 days after the adoption of the relevant implementing act. With regard to evaluation and reporting, the compromise text extends the Commission's deadline for carrying out an evaluation of the Reserve (30 June 2027) and incorporates Parliament's call for a two-stage process for reporting on implementation: the Commission will be required to inform the EP and the Council on the state of play of the implementation process by 30 June 2024, and to submit a final report on the implementation of the reserve by 30 June 2028.

For the Council, the Committee of Permanent Representatives endorsed the text agreed in trilogue on 28 June 2021, with Parliament's REGI committee approving the text at its meeting on 13 July 2021. Following a debate on the Brexit Adjustment Reserve which took place during the EP's plenary session on 14 September 2021, the European Parliament adopted its first-reading position on the file on 15 September 2021. With the act adopted by Council on 28 September 2021 after Parliament's first reading, the regulation was signed on 6 October 2021 and published in the Official Journal on 8 October 2021. The regulation entered into force on the day following that of its publication in the Official Journal.

EUROPEAN PARLIAMENT SOURCES

Hallak I., EU-UK Trade and Cooperation Agreement, EPRS, European Parliament, January 2021.

Popescu I. and Scholaert F., EU-UK relations in fisheries, EPRS, European Parliament, February 2021.

OTHER SOURCES

Brexit Adjustment Reserve, Legislative Observatory (OEIL), European Parliament.

ENDNOTES

1 This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.

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