

Opinion of the European Committee of the Regions – Proposal for a Regulation establishing the Brexit Adjustment Reserve

(2021/C 175/07)

Rapporteur-general:	Loïg CHESNAIS-GIRARD (FR/PES) President of the Regional Council of Brittany
Reference document:	COM(2020) 854 final

I. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

Recital 1

Text proposed by the European Commission	CoR amendment
<p>On 1 February 2020, the United Kingdom of Great Britain and Northern Ireland ('United Kingdom') left the European Union and the European Atomic Energy Community ('Euratom') — hereafter referred together as the 'Union', entering a transition period. That time-limited period was agreed as part of the Withdrawal Agreement⁽¹⁾ and is to last until 31 December 2020. During the transition period, the Union and the United Kingdom started formal negotiations on a future relationship.</p> <p>⁽¹⁾ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('Withdrawal Agreement') (OJ L 29, 31.1.2020, p. 7).</p>	<p>On 1 February 2020, the United Kingdom of Great Britain and Northern Ireland ('United Kingdom') left the European Union and the European Atomic Energy Community ('Euratom') — hereafter referred together as the 'Union', entering a transition period. That time-limited period was agreed as part of the Withdrawal Agreement⁽¹⁾ and ended on 31 December 2020. During the transition period, the Union and the United Kingdom started formal negotiations on a future relationship.</p> <p>⁽¹⁾ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('Withdrawal Agreement') (OJ L 29, 31.1.2020, p. 7).</p>

Amendment 2

Add a new recital 2a

Text proposed by the European Commission	CoR amendment
	<p><i>On 24 December 2020, negotiations between the European Union and the United Kingdom led to the conclusion of an agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ('the Trade and Cooperation Agreement')⁽¹⁾, defining their future relationship and provisionally entering into force on 1 January 2021. Implementation of the fisheries component of the Trade and Cooperation Agreement provides for a transition period of five and a half years until 30 June 2026, with a gradual reduction</i></p>

Text proposed by the European Commission	CoR amendment
	<p><i>in fishing activity in UK waters. This is expected to bring about profound changes throughout the fisheries value chain and in the structure of the coastal economy in some regions.</i></p> <p>⁽¹⁾ <i>Trade and cooperation agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (O) L 444, 31.12.2020, p. 14).</i></p>

Amendment 3

Recital 3

Text proposed by the European Commission	CoR amendment
<p>The Union is committed to mitigating the economic impact of the withdrawal of the United Kingdom from the Union and to show solidarity with all Member States, especially the most affected ones in such exceptional circumstances.</p>	<p>The Union is committed to mitigating the negative economic and social impact of the withdrawal of the United Kingdom from the Union and to show solidarity with all Member States, and all the affected regions and economic sectors in such exceptional circumstances.</p>

Amendment 4

Recital 5

Text proposed by the European Commission	CoR amendment
<p>For the purposes of contributing to economic, social and territorial cohesion, it is appropriate that Member States, when designing support measures, focus in particular on the regions, areas and local communities, including those dependent on fishing activities in the United Kingdom waters, that are likely to be most negatively impacted by the withdrawal of the United Kingdom. Member States may have to take specific measures notably to support businesses and economic sectors adversely affected by the withdrawal. It is therefore appropriate to provide a non-exhaustive list of the type of measures that are most likely to achieve this objective.</p>	<p>For the purposes of contributing to economic, social and territorial cohesion, it is appropriate that Member States, when designing support measures, focus in particular on the regions, areas and local communities, including those dependent on fishing activities in the United Kingdom waters, that are likely to be most negatively impacted by the withdrawal of the United Kingdom, and ensure a balanced distribution across all of the affected regions. Member States may have to take specific measures notably to support businesses and economic sectors adversely affected by the withdrawal. It is therefore appropriate to provide a non-exhaustive list of the type of measures that are most likely to achieve this objective.</p>

Amendment 5

Recital 5

Text proposed by the European Commission	CoR amendment
	<p><i>Certain economic sectors are particularly exposed. In some regions that are heavily dependent on British customers, significant reductions in tourist activity are anticipated. Residency rules for citizens are likely to jeopardise conventional movement and trade practices between areas as well as the demographic balances of certain areas. Trade activities depend on the ability of businesses and value chains to integrate the new requirements set out in the agreement. Although the effects are already apparent for some sectors, such as that of ultra-fresh products, much of the impact of Brexit is still obscured by the health situation caused by COVID-19 or the fact that not all the provisions have been applied in practice yet.</i></p>

Amendment 6

Recital 6

Text proposed by the European Commission	CoR amendment
<p>At the same time, it is important to clearly specify any exclusions from support provided by the Reserve. The Reserve should exclude from support the value added tax as <i>it</i> constitutes a Member State revenue, which offsets the related cost for the Member State budget. <i>In order to concentrate the use of limited resources in the most efficient way, technical assistance used by the bodies responsible for the implementation of the Reserve should not be eligible for support from the Reserve.</i> In line with the general approach for cohesion policy, expenditure linked to relocations or contrary to any applicable Union or national law should not be supported.</p>	<p>At the same time, it is important to clearly specify any exclusions from support provided by the Reserve. The Reserve should exclude from support the value added tax, <i>unless it is non-recoverable under national VAT legislation,</i> as VAT constitutes a Member State revenue, which offsets the related cost for the Member State budget. In line with the general approach for cohesion policy, expenditure linked to relocations or contrary to any applicable Union or national law should not be supported.</p>

Amendment 7

Recital 14

Text proposed by the European Commission	CoR amendment
<p>Pursuant to paragraphs 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate the Reserve on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, should include measurable indicators, as a basis for the evaluation of the Reserve.</p>	<p>Pursuant to paragraphs 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate the Reserve on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burden, in particular on Member States and local and regional authorities. These requirements, where appropriate, should include measurable indicators, as a basis for the evaluation of the Reserve.</p>

Amendment 8

Recital 15

Text proposed by the European Commission	CoR amendment
<p>To ensure equal treatment of all Member States and consistency in the evaluation of the applications, the Commission should assess the applications in a package. It should look in particular into the eligibility and the accuracy of the expenditure declared, the direct link of the expenditure with measures taken to address the consequences of the withdrawal and the measures put in place by the Member State concerned to avoid double funding. Upon assessment of the applications for a financial contribution from the Reserve, the Commission should clear the pre-financing paid, and recover the unused amount. In order to concentrate the support on Member States most affected by the withdrawal, where the expenditure in the Member State concerned, accepted as eligible by the Commission, exceeds the amount paid as pre-financing and 0,06 % of the nominal Gross National Income (GNI) for 2021 of the Member State concerned, it should be possible to allow for a further allocation from the Reserve to that Member State within the limits of the financial resources available. Given the extent of the expected economic shock, the possibility to use the amounts recovered from the pre-financing for the reimbursement of additional expenditure by Member States should be provided for.</p>	<p>To ensure equal treatment of all Member States and consistency in the evaluation of the applications, the Commission should assess the applications in a package. It should look in particular into the eligibility and the accuracy of the expenditure declared, the direct link of the expenditure with measures taken to address the consequences of the withdrawal and the measures put in place by the Member State concerned to avoid double funding. The breakdown of expenditure by sector and NUTS 2 regions, including the outermost regions, should also be ensured. Upon assessment of the applications for a financial contribution from the Reserve, the Commission should clear the pre-financing paid, and recover the unused amount. In order to concentrate the support on Member States most affected by the withdrawal, where the expenditure in the Member State concerned, accepted as eligible by the Commission, exceeds the amount paid as pre-financing and 0,06 % of the nominal Gross National Income (GNI) for 2021 of the Member State concerned, it should be possible to allow for a further allocation from the Reserve to that Member State within the limits of the financial resources available. Given the extent of the expected economic shock, the possibility to use the amounts recovered from the pre-financing for the reimbursement of additional expenditure by Member States should be provided for.</p>

Amendment 9

Recital 16

Text proposed by the European Commission	CoR amendment
<p>In order to ensure the proper functioning of shared management, Member States should establish a management and control system, designate and notify the Commission of the bodies responsible for the management of the Reserve as well as a separate independent audit body. For simplification reasons, Member States may make use of existing bodies designated and systems set up for the purpose of the management and control of cohesion policy funding or the European Union Solidarity Fund. It is necessary to specify the responsibilities of the Member States and lay down the specific requirements for the bodies designated.</p>	<p>In order to ensure the proper functioning of shared management, Member States should establish a management and control system, designate and notify the Commission of the bodies responsible at national or regional level for the management of the Reserve as well as a separate independent audit body. For simplification reasons, Member States should make use of existing bodies designated and systems set up for the purpose of the management and control of cohesion policy funding or the European Union Solidarity Fund. It is necessary to specify the responsibilities of the Member States and lay down the specific requirements for the bodies designated. Member States will ensure that the local and regional authorities concerned are involved in the implementation and monitoring of the fund, in particular via the monitoring bodies, if they are not already part of them.</p>

Amendment 10

Recital 19

Text proposed by the European Commission	CoR amendment
<p>(19) In order to enhance transparency on the use of the Union contribution, the Commission should provide a final report to the European Parliament and the Council on the implementation of the Reserve.</p>	<p>(19) In order to enhance transparency on the use of the Union contribution, the Commission should provide a final report to the European Parliament, the Council, the Committee of the Regions and the European Economic and Social Committee on the implementation of the Reserve.</p>

Amendment 11

Article 2

Text proposed by the European Commission	CoR amendment
<p>For the purpose of this Regulation, the following definitions apply:</p> <p>(1) 'reference period' means the reference period referred to in Article 63(5), point (a), of the Financial Regulation, which shall be from 1 July 2020 to 31 December 2022;</p> <p>(2) 'applicable law' means Union law and the national law relating to its application;</p>	<p>For the purpose of this Regulation, the following definitions apply:</p> <p>(1) 'reference period' means the reference period referred to in Article 63(5), point (a), of the Financial Regulation, which shall be from 1 July 2020 to 31 December 2022;</p> <p>(2) 'applicable law' means Union law and the national law relating to its application;</p>

Text proposed by the European Commission	CoR amendment
(3) 'irregularity' means any breach of Union law, or of national law relating to its application, resulting from an act or omission by any public or private entity involved in the implementation of the Reserve, including Member State authorities, which has, or would have, the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union;	(3) 'irregularity' means any breach of Union law, or of national law relating to its application, resulting from an act or omission by any public or private entity involved in the implementation of the Reserve, including Member State authorities, which has, or would have, the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union;
(4) 'total error rate' means total errors identified in the sample divided by the audit population;	(4) 'total error rate' means total errors identified in the sample divided by the audit population;
(5) 'residual error rate' means the total error rate less the financial corrections applied by the Member State which intend to reduce the risks identified by the independent audit body in its audits of financed measures, divided by the expenditure to be covered by the financial contribution from the Reserve;	(5) 'residual error rate' means the total error rate less the financial corrections applied by the Member State which intend to reduce the risks identified by the independent audit body in its audits of financed measures, divided by the expenditure to be covered by the financial contribution from the Reserve.
(6) 'Relocation' means a transfer of the same or similar activity or part thereof within the meaning of Article 2(61a) of Commission Regulation (EU) No 651/2014.	

Amendment 12

Article 4

Text proposed by the European Commission	CoR amendment
1. All Member States shall be eligible for support from the Reserve.	1. All Member States shall be eligible for support from the Reserve.
2. The maximum resources for the Reserve shall be EUR 5370 994 000 in current prices.	2. The maximum resources for the Reserve shall be EUR 6370 994 000 in current prices.
3. The resources referred to in paragraph 2 shall be allocated as follows:	3. The resources referred to in paragraph 2 shall be allocated as follows:
(a) a pre-financing amount of EUR 4 244 832 000 shall be made available in 2021 in accordance with Article 8;	(a) a pre-financing amount of EUR 4 244 832 000 shall be made available in 2021 in accordance with Article 8;
(b) additional amounts of EUR 1 126 162 000 shall be made available in 2024 in accordance with Article 11.	(b) additional amounts of EUR 2 126 162 000 shall be made available in 2026 in accordance with Article 11.
The amounts referred to in point (a) of the first subparagraph of this paragraph shall be considered pre-financing within the meaning of Article 115(2), point (b)(i), of the Financial Regulation.	The amounts referred to in point (a) of the first subparagraph of this paragraph shall be considered pre-financing within the meaning of Article 115(2), point (b)(i), of the Financial Regulation.

Text proposed by the European Commission	CoR amendment
	<p>4. Resources from the pre-financing of the reserve allocated on the basis of the fisheries criterion (Annex I, point 2) shall be used exclusively to support businesses and local and regional communities dependent on fishing activities in waters that belong to the UK Exclusive Economic Zone (EEZ), as provided for in Article 5(1)(c).</p> <p>5. When defining the support measures financed with the resources allocated on the basis of the trade criterion with the United Kingdom (Annex I, paragraph 2), the Member States will take into account the relative importance of net trade for each (NUTS 2) region. In any event, this trade will include tourism services.</p>

Amendment 13

Add a new Article 4a

Text proposed by the European Commission	CoR amendment
	<p>Consultation process</p> <p>1. Each Member State shall establish a multi-level dialogue, in accordance with the national legal framework, including at least with local and regional authorities in the areas most heavily affected. This consultation process shall be based on the partnership principle in cohesion policy, and shall relate to the identification and implementation of the measures supported by the Reserve.</p> <p>2. The arrangements for consulting and involving local and regional authorities shall be indicated by the Member State in [new Annex IV].</p>

Reason

A consultation process should be an essential part of deciding how this funding is allocated. Local and Regional Authorities should be included in the consultation process, in line with procedures for cohesion policy.

Amendment 14

Article 5(1)

Text proposed by the European Commission	CoR amendment
<p>Eligibility</p> <p>1. The financial contribution from the Reserve shall only support the public expenditure directly linked to measures specifically taken by Member States to contribute to the objectives referred to in Article 3, and may cover, in particular the following:</p>	<p>Eligibility</p> <p>1. The financial contribution from the Reserve shall only support the public expenditure directly linked to measures specifically taken by Member States to contribute to the objectives referred to in Article 3, and may cover, in particular the following:</p>

Text proposed by the European Commission	CoR amendment
(a) measures to assist businesses and local communities adversely affected by the withdrawal;	(a) measures to assist businesses (especially SMEs), regions and local communities adversely affected by the withdrawal including compensation for businesses facing a significant drop in turnover due to their access to the UK market being reduced by the introduction of non-tariff barriers ;
(b) measures to support the most affected economic sectors;	(b) measures to support the most affected economic sectors, including essential investment for the reorganisation of value chains ;
(c) measures to support businesses and local communities dependent on fishing activities in the United Kingdom waters;	(c) measures to support businesses and local and regional communities dependent on fishing activities in the United Kingdom waters, including essential investment for restructuring the sector ;
(d) measures to support employment, including through short-time work schemes, re-skilling and training in affected sectors;	(d) measures aimed at mitigating the economic and social impact of Brexit on particularly affected sectors, such as tourism, agricultural exports, research and innovation ;
(e) measures to ensure the functioning of border, customs, sanitary and phytosanitary, security and fisheries controls, as well as the collection of indirect taxation including additional personnel and infrastructure;	(e) measures to support employment, including through short-time work schemes, re-skilling and training for the affected sectors;
(f) measures to facilitate regimes for certification and authorisation of products, to assist in meeting establishment requirements, to facilitate labelling and marking, for example for safety, health and environmental standards, as well as to assist in mutual recognition;	(f) measures to facilitate the reintegration into the EU labour market of EU nationals who had to leave the United Kingdom as a result of restrictions on the free movement of workers ;
(g) measures for communication, information and awareness-raising of citizens and businesses about changes stemming from the withdrawal to their rights and obligations.	(g) measures to ensure the functioning of border, customs, sanitary and phytosanitary, security and fisheries controls, as well as the collection of indirect taxation including additional skilled personnel and physical and intangible infrastructure;

Text proposed by the European Commission	CoR amendment
	<p>(h) measures to facilitate regimes for certification and authorisation of products, to assist in meeting establishment requirements, to facilitate labelling and marking, for example for safety, health and environmental standards, as well as to assist in mutual recognition;</p> <p>(i) measures for communication, information and awareness-raising of citizens and businesses, with a particular focus on SMEs, about changes stemming from the withdrawal to their rights and obligations;</p> <p>(j) measures to mitigate disruptions caused by the withdrawal of the United Kingdom from cooperation and exchange programmes;</p> <p>(k) measures to ensure dialogue and consultation between the regions and sectors most heavily affected, in order to limit the unexpected effects of disruptions between European and British partners and to create an environment conducive to the smooth and operational implementation of the Trade and Cooperation Agreement;</p> <p>(l) measures for impact assessment and evaluation of measures implemented under the Reserve.</p>

Amendment 15

Article 5(2)

Text proposed by the European Commission	CoR amendment
<p>2. Expenditure shall be eligible if it is incurred and paid during the reference period for measures carried out in the Member State concerned or for the benefit of the Member State concerned.</p>	<p>2. Expenditure shall be eligible if it is incurred and paid during the reference period for measures carried out in the affected regions and sectors of the Member State concerned.</p>

Amendment 16

Article 5 (3)

Text proposed by the European Commission	CoR amendment
<p>When designing support measures, Member States shall take into account the varied impact of the withdrawal of the United Kingdom from the Union on different regions and local communities and focus support from the Reserve on those most affected, as appropriate</p>	<p>When designing support measures, Member States shall take into account the varied impact of the withdrawal of the United Kingdom from the Union on different regions and local communities and focus support from the Reserve on those most affected, as appropriate, ensuring a balanced distribution of resources based on the economic impact on each region.</p>

Reason

The amendment aims to ensure that the allocation of the Reserve's resources takes into account the economic impact of Brexit on each affected region and leads to a balanced distribution of the funds based on actual economic damage.

Amendment 17

Article 5(4)

Text proposed by the European Commission	CoR amendment
The measures referred to in paragraph 1 shall comply with applicable law.	The measures referred to in paragraph 1 shall comply with the applicable law, subject to the exceptions referred to in Article [new Article 6].

Amendment 18

Article 5(5)

Text proposed by the European Commission	CoR amendment
Measures eligible under paragraph 1 may receive support from other Union programmes and instruments provided that such support does not cover the same cost.	Measures eligible under paragraph 1 may receive support from other Union programmes and instruments provided that such support does not cover the same cost. <i>The relevant local and regional authorities that act as managing authorities or intermediate bodies for European funds shall be fully involved and consulted in the context of efforts to avoid overlapping funding. The decision to mobilise the Structural Funds rather than the Reserve must be subject to consultation with the relevant stakeholders, in view of the impact it may have on the implementation of other European and funding programmes.</i>

Amendment 19

Add a new Article 5a

Text proposed by the European Commission	CoR amendment
	<p><i>State aid</i></p> <p><i>1. For the fisheries sector, and the sector for primary production of agricultural products, Articles 107, 108 and 109 of the Treaty on the Functioning of the European Union shall not apply to payments made by Member States under the present Regulation falling within the scope of Article 42 of the Treaty on the Functioning of the European Union for aid granted solely under Article 5 during the reference period.</i></p> <p><i>2. National provisions establishing public funding that goes beyond the provisions of the present Regulation relating to the payments referred to in paragraph 1 shall be treated in their entirety on the basis of Articles 107, 108 and 109 of the Treaty on the Functioning of the European Union.</i></p>

Amendment 20

Article 6

Text proposed by the European Commission	CoR amendment
<p style="text-align: center;">Exclusion from support</p> <p>The Reserve shall not support:</p> <p>(a) value added tax;</p> <p>(b) technical assistance for the management, monitoring, information and communication, complaint resolution, and control and auditing of the Reserve;</p> <p>(c) expenditure supporting relocation as defined in Article 2(6);</p> <p>(d) expenditure supporting relocation in accordance with Article 14(16) of Commission Regulation (EU) No 651/2014, where a contribution from the Reserve constitutes State aid.</p>	<p style="text-align: center;">Exclusion from support</p> <p><i>The Reserve shall not support:</i></p> <p>(a) value added tax, except where it is non-recoverable under national VAT legislation;</p> <p>(b) expenditure supporting relocation as defined in Article 2(6);</p> <p>(c) expenditure supporting relocation in accordance with Article 2(61)(a) and Article 14(16) of Commission Regulation (EU) No 651/2014, where a contribution from the Reserve constitutes State aid;</p> <p>(d) beneficiaries whose registered office is in a third country.</p>

Amendment 21

Article 7(5)

Text proposed by the European Commission	CoR amendment
<p>By derogation from Article 12 of the Financial Regulation, unused commitment and payment appropriations under this Regulation shall be automatically carried over and may be used until 31 December 2025. The appropriations carried over shall be consumed first in the following financial year.</p>	<p>By derogation from Article 12 of the Financial Regulation, unused commitment and payment appropriations under this Regulation shall be automatically carried over and may be used until 31 December 2026. The appropriations carried over shall be consumed first in the following financial year.</p>

Amendment 22

Article 8(3)

Text proposed by the European Commission	CoR amendment
The Commission shall pay the pre-financing within 60 days of the date of the adoption of the implementing act referred to in paragraph 2. It shall be cleared in accordance with Article 11.	The Commission shall pay the pre-financing within 45 days of the date of the adoption of the implementing act referred to in paragraph 2. It shall be cleared in accordance with Article 11.

Amendment 23

Article 10(1)

Text proposed by the European Commission	CoR amendment
The application shall be based on the template set out in Annex II. The application shall include information on the total public expenditure incurred and paid by Member States and the values of output indicators for the measures supported. It shall be accompanied by the documents referred to in paragraphs 5, 6 and 7 of Article 63 of the Financial Regulation and by an implementation report.	The application shall be based on the template set out in Annex II. The application shall include information on the total public expenditure incurred and paid by Member States, including a breakdown of expenditure by NUTS 2 region , and the values of output indicators for the measures supported. It shall be accompanied by the documents referred to in paragraphs 5, 6 and 7 of Article 63 of the Financial Regulation and by an implementation report.

Amendment 24

Article 10(2)

Text proposed by the European Commission	CoR amendment
<p>2. The implementation report for the Reserve shall include:</p> <p>(a) a description of the impact of the withdrawal of the United Kingdom from the Union in economic and social terms including an identification of the regions, areas and sectors most affected;</p> <p>(b) a description of the measures taken to counter the adverse consequences of the withdrawal of the United Kingdom from the Union, of the extent to which those measures alleviated the regional and sectoral impact referred to in point (a), and how they were implemented;</p> <p>(c) a justification of the eligibility of the expenditure incurred and paid and its direct link to the withdrawal of the United Kingdom from the Union;</p>	<p>2. The implementation report for the Reserve shall include:</p> <p>(a) a description of the impact of the withdrawal of the United Kingdom from the Union in economic and social terms including an identification of the regions, areas and sectors most affected; the financial assessment shall be expressed in constant euros;</p> <p>(aa) in accordance with [new Article 5], a description of the consultations held with the regions and sectors most heavily affected, both when the measures were drawn up and when they were implemented;</p> <p>(b) a description of the measures taken to counter the adverse consequences of the withdrawal of the United Kingdom from the Union, of the extent to which those measures alleviated the regional and sectoral impact referred to in point (a), and how they were implemented;</p> <p>(c) a justification of the eligibility of the expenditure incurred and paid and its direct link to the withdrawal of the United Kingdom from the Union;</p>

Text proposed by the European Commission	CoR amendment
(d) a description of the measures taken to avoid double funding and to ensure complementarity with other Union instruments and national funding;	(d) a description of the measures taken to avoid double funding and to ensure complementarity with other Union instruments and national funding;
(e) a description of the contribution of the measures to climate change mitigation and adaptation.	(e) a description of the contribution of the measures to climate change mitigation and adaptation.

Amendment 25

Article 13(1)

Text proposed by the European Commission	CoR amendment
<p>Management and control</p> <p>1. When executing tasks relating to the implementation of the Reserve, Member States shall take all the necessary measures, including legislative, regulatory and administrative measures, to protect the financial interests of the Union, namely by:</p> <p>(a) designating a body responsible for the management of the financial contribution from the Reserve and an independent audit body in accordance with Article 63(3) of the Financial Regulation, and supervising such bodies;</p> <p>(b) setting up management and control systems for the Reserve in accordance with the principles of sound financial management and ensuring that those systems function effectively;</p> <p>(c) drawing up a description of the management and control system in accordance with the template set out in Annex III, keeping the description up to date and making it available to the Commission on request;</p> <p>(d) notifying the Commission of the identity of the bodies designated and of the body to which the pre-financing shall be paid, and confirming that the systems' descriptions have been drawn up, within three months of the entry into force of this Regulation;</p> <p>(e) ensuring that expenditure supported under other Union programmes and instruments is not included for support from the Reserve;</p>	<p>Management and control</p> <p>1. When executing tasks relating to the implementation of the Reserve, Member States shall take all the necessary measures, including legislative, regulatory and administrative measures, to protect the financial interests of the Union, namely by:</p> <p>(a) designating, at the appropriate level of governance, one or more bodies responsible for the management of the financial contribution from the Reserve and an independent audit body in accordance with Article 63(3) of the Financial Regulation, and supervising such bodies;</p> <p>(b) setting up management and control systems for the Reserve in accordance with the principles of sound financial management and ensuring that those systems function effectively;</p> <p>(c) drawing up a description of the management and control system in accordance with the template set out in Annex III, keeping the description up to date and making it available to the Commission on request;</p> <p>(d) notifying the Commission of the identity of the bodies designated and of the body to which the pre-financing shall be paid, and confirming that the systems' descriptions have been drawn up, within three months of the entry into force of this Regulation;</p> <p>(e) ensuring that expenditure supported under other Union programmes and instruments is not included for support from the Reserve;</p>

Text proposed by the European Commission	CoR amendment
<p>(f) preventing, detecting and correcting irregularities and fraud, and avoiding conflict of interest including through the use of a single data mining tool provided by the Commission;</p> <p>[...]</p>	<p>(f) preventing, detecting and correcting irregularities and fraud, and avoiding conflict of interest;</p> <p>[...]</p>

Amendment 26

Article 13(3)

Text proposed by the European Commission	CoR amendment
<p>The body responsible for managing the financial contribution from the Reserve shall:</p> <p>(a) ensure the functioning of an effective and efficient internal control system;</p> <p>(b) establish criteria and procedures for the selection of measures to be financed and determine the conditions for a financial contribution from the Reserve;</p> <p>(c) verify that the measures financed from the Reserve are implemented in accordance with applicable law and the conditions for a financial contribution from the Reserve, and that the expenditure is based on verifiable supporting documents;</p> <p>(d) establish effective measures to avoid double funding of the same costs by the Reserve and other sources of Union funding;</p> <p>(e) ensure ex post publication in accordance with paragraphs 2 to 6 of Article 38 of the Financial Regulation;</p> <p>(f) use an accounting system to record and store in an electronic form data on the expenditure incurred to be covered by the financial contribution from the Reserve that provides accurate, complete and reliable information in a timely manner;</p> <p>(g) keep available all supporting documents regarding expenditure to be covered by the financial contribution from the Reserve for a period of five years following the deadline for submission of the application for a financial contribution, and transpose this obligation in agreements with other entities involved in the implementation of the Reserve;</p>	<p>The body or bodies responsible for managing the financial contribution from the Reserve shall:</p> <p>(a) ensure the functioning of an effective and efficient internal control system;</p> <p>(b) establish criteria and procedures for the selection of measures to be financed and determine the conditions for a financial contribution from the Reserve;</p> <p>(c) verify that the measures financed from the Reserve are implemented in accordance with applicable law and the conditions for a financial contribution from the Reserve, and that the expenditure is based on verifiable supporting documents;</p> <p>(d) establish effective measures to avoid double funding of the same costs by the Reserve and other sources of Union funding;</p> <p>(e) ensure ex post publication in accordance with paragraphs 2 to 6 of Article 38 of the Financial Regulation;</p> <p>(f) use an accounting system to record and store in an electronic form data on the expenditure incurred to be covered by the financial contribution from the Reserve that provides accurate, complete and reliable information in a timely manner;</p> <p>(g) keep available all supporting documents regarding expenditure to be covered by the financial contribution from the Reserve for a period of five years following the deadline for submission of the application for a financial contribution, and transpose this obligation in agreements with other entities involved in the implementation of the Reserve;</p>

Text proposed by the European Commission	CoR amendment
(h) for the purposes of point (f) of paragraph 1, collect information in an electronic standardised format to allow for the identification of recipients of a financial contribution from the Reserve and their beneficial owners in accordance with Annex III.	(h) for the purposes of point (f) of paragraph 1, collect information in an electronic standardised format to allow for the identification of recipients of a financial contribution from the Reserve and their beneficial owners in accordance with Annex III.

Amendment 27

Article 16(2)

Text proposed by the European Commission	CoR amendment
2. By 30 June 2027, the Commission shall submit to the European Parliament and to the Council a report on the implementation of the Reserve.	2. By 30 June 2027, the Commission shall submit to the European Parliament, the Council, the European Committee of the Regions and the European Economic and Social Committee a report on the implementation of the Reserve.

Amendment 28

Annex I(3)

Text proposed by the European Commission	CoR amendment
<p>3. The factor linked to fisheries is determined on the basis of the following criterion and by applying the following steps:</p> <p>a) share of each Member State of the total value of the fish caught in the UK EEZ;</p> <p>b) these shares are increased for Member States with fisheries that have an above average dependency on the fish caught in the UK EEZ and decreased for the ones that have a below average dependency as following:</p> <p>i) for each Member State, the value of fish caught in UK EEZ as a percentage of the total value of fish caught by that Member State is expressed as an index of the EU average (index of dependency);</p> <p>ii) the initial share of the value of fish caught in the UK EEZ is adjusted by multiplying it with the Member State's index of dependency;</p> <p>iii) these adjusted shares are rescaled to ensure that the sum of all Member States' shares equals 100 %.</p>	<p>3. The factor linked to fisheries is determined on the basis of the following criterion and by applying the following steps:</p> <p>a) share of each Member State of the total value of the fish caught in the UK EEZ between 2015 and 2018;</p> <p>b) the shares thus determined are rescaled to ensure that the sum of all Member States' shares equals 100 %.</p>

Text proposed by the European Commission	CoR amendment
<p>4. The factor linked to trade is obtained by applying the following steps:</p> <p>a) each Member State's trade with the UK is expressed as share of the EU trade with the UK (trade is the sum of the imports and the exports of goods and services);</p>	<p>4. The factor linked to trade is obtained by applying the following steps:</p> <p>a) each Member State's trade with the UK is expressed as share of the EU trade with the UK (trade is the sum of the imports and the exports of goods and services, including the tourism sector, except financial services)</p>

Amendment 29

Add a new Annex IIIa

Text proposed by the European Commission	CoR amendment
	<p style="text-align: center;">Annex IIIa</p> <p style="text-align: center;">Template for geographical and sectoral breakdown</p> <p>1. Identification of the economic sectors most heavily affected:</p> <p>2. Identification of the NUTS 2 regions most heavily affected:</p> <p><i>For each region (including regions identified in Article 349 TFEU):</i></p> <ul style="list-style-type: none"> — <i>NUTS 2 classification</i> — <i>Name of region</i> — <i>Population of region (date)</i> — <i>GDP of region</i> — <i>Volume of trade with the United Kingdom in 2019</i> <p>3. Description of the partnership approach put in place:</p> <p>4. Development of strategies:</p> <p><i>(please indicate the strategy documents developed)</i></p> <ul style="list-style-type: none"> — <i>Overall strategy:</i> — <i>Regional strategies:</i> — <i>Sectoral strategies:</i> <p>5. Description of the monitoring and evaluation tools put in place:</p> <p>6. Breakdown of expenditure</p> <p><i>Amount paid</i></p> <p><i>Fisheries sector</i></p> <p><i>Sectors affected by trade</i></p>

Text proposed by the European Commission	CoR amendment
	<p>7. Geographical breakdown of expenditure</p> <p>i. NUT 2 regions most heavily affected: NUTS 2 classification Amount €/inhabitant</p> <p>ii. Amount without geographic targeting:</p> <p>8. Contribution to climate objectives Percentage of expenditure:</p> <p>9. Contribution to the digital transition objectives Percentage of expenditure:</p>

II. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS

1. welcomes the establishment of a Brexit Adjustment Reserve (BAR), which aims to cushion the territorial impact of the United Kingdom's withdrawal from the European Union. The BAR is a tangible expression of intra-European solidarity and is intended to contribute to economic, social and territorial cohesion, as illustrated by the legal basis (Article 175 TFEU) of the Commission's proposal;

2. considers the conclusion of a trade and cooperation agreement between the EU and the UK to be a positive outcome of the negotiations. However, the new framework for relations with the United Kingdom will have serious subnational consequences. Because the TCA does not fully meet the FTA scenario, many European regions are still highly exposed to the economic and social consequences of Brexit. This impact is particularly significant for regions that are geographically close to the United Kingdom or have particularly close relationships with British partners. Local and regional authorities, economic operators such as tourism, along with the education and research sectors, and also civil society and the general public, are facing the consequences of new borders and new administrative procedures being put in place, new complications in value chains, and the end of cooperation programmes;

3. draws attention to the geopolitical consequences of the Trade and Cooperation Agreement, which are very real for a number of local and regional authorities that are now on the new external borders of the European Union. It is therefore very welcome that measures to improve the fluidity of controls, trade in goods and movement of persons are eligible for support. The CoR stresses that, in these new border regions, local and regional control-related investment will help to protect all European citizens within the new borders of the European Union. The CoR calls on both Parliament and the Council to set a fair minimum coverage floor for these regions;

4. calls for the additional amounts made available in the second stage in accordance with Article 11 to be increased by EUR 1 billion in order to better respond to medium-term needs, in line with its call for the eligibility period for the BAR to be extended;

5. highlights the exposure of the fisheries and seafood sector, for which there will be a transition period of five and a half years. In addition to the new constraints common to all European sectors, the fisheries sector is facing a direct threat to an entire segment of its activities. This situation requires an impact assessment that reflects regional realities as closely as possible, without national indexation. It is crucial to achieve a fairer financial distribution between the European regions affected, irrespective of the size of the Member State;

6. would like local and regional authorities to be placed at the heart of the establishment of this new financial instrument. The CoR 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; As demonstrated by the CoR's studies on the consequences of Brexit, looking at impact only on a national level does not reflect its very localised intensity. Local authorities must be involved in impact assessments and the design of measures. This is all the more important given that, depending on their competences, local and regional authorities will need to pre-finance certain measures themselves, develop local strategies to mitigate the impact of Brexit and mobilise some of the European funds they manage. This involvement on the part of local and regional authorities will help to target needs and implement the BAR effectively;

7. equally highlights the exposure of regions due to loss of trading opportunities with the UK and the fact that the TCA does not fully meet the FTA scenario. This impacts 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. The CoR appreciates that the impact is likely to have long-lasting socio-economic effects on communities across regions, and hence must be addressed immediately. Further highlights that the BAR is the only EU finance instrument dealing with Member States, regions and sectors suffering the adverse consequences of Brexit;

8. calls for the eligibility period to be extended to June 2026, considering that European solidarity should not be limited to 2021 and 2022 and noting that there is no provision for resources to mitigate the impact of Brexit from 2023 on.

— The CoR highlights a major inconsistency between the length of the transitional period for the fisheries sector and the eligibility period of the BAR. Only an extension of the eligibility period for expenditure until June 2026 will allow the sector to be properly supported. While it is essential to have synergies with the EMFAF, the EMFAF will continue to be the structural instrument for implementing the common fisheries policy and cannot cater for the asymmetric territorial consequences of Brexit.

— For the deployment of permanent control infrastructure, the CoR notes that the health situation related to COVID-19 makes it impossible to measure real flows and make investments immediately.

— Some measures or investments may entail minimum preparation or implementation periods that do not allow for commitments or payments before 31 December 2022. The CoR is referring here to both public procurement procedures and procedures to ensure that measures or investments comply with the EU or national rules in force (environmental impact assessments, planning permits, public inquiries, state aid notification procedures, etc.).

— The CoR stresses that the effects of Brexit vary across European regions and therefore warmly welcomes the flexibility given to the Member States to design measures that best meet their needs. It is important that measures can be developed both for industry, tourism, transport, research and innovation, and for the agricultural or agri-food sectors, according to local and regional needs. The CoR believes that the potential diversity of the reserve's areas of intervention must be made clear in the regulation to facilitate proper understanding and implementation of the fund.

9. believes that the reserve will have a key role to play in supporting the implementation of the new legal framework for relations between the EU and the United Kingdom, whose consequences cannot be fully identified, in particular due to the combined effect of Brexit and COVID-19. This also applies to specific issues that are yet to be negotiated, such as for financial services or the UK's participation in the Horizon Europe programme. Both positive and negative developments will have to be taken into account

10. wonders about the added value in terms of good governance of the public consultation on the Brexit Adjustment Reserve launched by the European Commission on 24 February 2021 for a period of eight weeks⁽¹⁾, while the legislative proposal was presented two months earlier and interinstitutional negotiations to reach an agreement in the first half of 2021 are already at a very advanced stage;

11. takes the view that Brexit is a unique situation and that only limited parallels can be drawn with existing schemes such as the EU Solidarity Fund. The CoR finds it regrettable that the Commission's proposal does not reflect the partnership principle applicable to cohesion policy, as it does not provide any guarantees concerning the role of local and regional authorities in governance. The way in which the measures are designed and managed should better reflect the stated approach of targeting territorial impact;

12. considers that Member States should be given flexibility to define management systems: number of bodies and levels of management (national, regional or interregional). In return, Member States will need to justify their choice in terms of subsidiarity and, in particular, of capacity to respond to needs concentrated in certain regions and/or economic sectors that are more exposed; In any case, the regional level's participation in the management process must be ensured;

(¹) <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12917-Proposal-for-a-Regulation-Regional-and-urban-Policy>

13. considers Brexit to be of great importance to areas as diverse as fisheries and marine produce, citizens' mobility, training, cooperation projects on research, development and innovation, knowledge transfer, tackling climate change, preserving eco-systems and public-private partnerships, among others. Due to the different degrees of decentralisation found in Member States, cooperation between different administrative levels can be considered as necessary or as a positive factor in helping different areas to overcome the negative externalities of Brexit. The Committee calls for the partnership principle to be made a reality and for the Brexit Adjustment Reserve to be managed in accordance with the general criteria for shared management programmes between the Commission, the Member States and the regional and local authorities;

14. proposes that the Member States encourage the introduction of regional strategies in order to anticipate the timetable for implementing measures and changes in the medium term. This should be done in a way that is consistent with all relevant local and regional policies. At the time when the pre-financing is disbursed, the Member States should inform the European Commission of how they will ensure participation and consultation with local and regional authorities under a 'partnership obligation';

15. proposes that all provisions providing for the involvement of local and regional authorities should be made secure by means of a mechanism for informing the European Commission. Specifically, the CoR recommends that, at the point when expenditure rises, the Member States should send the European Commission a new annex showing the breakdown of expenditure by sector and NUTS 2 region, including their contribution to climate and digital transition objectives. This quantitative and qualitative information will also contribute to the evaluation of the BAR and make it possible, prior to payment of the additional contributions made available in the second stage in accordance with Article 11, to assess how the BAR has been mobilised in each Member State and to ensure that the recommended partnership has indeed been implemented;

16. wishes to ensure that local and regional authorities responsible for managing authorities or intermediate bodies for European funds take part in efforts to avoid overlapping funding. Conversely, the decision to mobilise the Structural Funds rather than the BAR must be subject to consultation with the relevant stakeholders, in view of its potential impact on the implementation of other European policies;

17. calls for a proportion of funds to be made available for transfer to the Member States and regions, after the approval of the distribution and pre-financing criteria, so that, where appropriate, they are able to finance the relevant support measures without creating the need for prior use of their own funds;

18. calls for provision to be made for flexibility with regard to state aid, to ensure rapid implementation of the measures and to provide the capacity to intervene in favour of the economic operators most heavily affected. The temporary arrangements made for COVID need to be extended to the direct impact of Brexit throughout the eligibility period for expenditure under the BAR. In the fisheries and agriculture sectors, the provisions applicable to the EMFAF and EAFRD must apply to the BAR;

19. highlights the fact that SMEs trading with the UK are disproportionately affected by the costs of new administrative procedures associated with exporting to the UK in relation to their turnover. Therefore, the relative costs to businesses should be taken into consideration for the distribution of BAR resource;

20. calls for non-recoverable VAT to be eligible, as provided for in the EU Solidarity Fund. Without this eligibility, many of the measures funded by local and regional authorities will not be able to benefit 100 % from European solidarity;

21. calls for the disbursement of additional funds in 2023 to be partly linked to a European evaluation of the actual impact of Brexit over the period 2021-2022, in order to refine the targeting of the regions and sectors most heavily affected, but also to identify those that have been more resilient or have benefited from the changes;

22. reiterates its commitment to continuing cooperation between British and European stakeholders, and calls for the BAR to support the European partners in the dialogue to be maintained, both in order to avoid disputes arising from the implementation of the Trade and Cooperation Agreement and to build future cooperation.

Brussels, 19 March 2021.

The President
of the European Committee of the Regions
Apostolos TZITZIKOSTAS
