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Proposal for a

COUNCIL DECISION

on the system of Own Resources of the European Union

{SWD(2018) 172 final}

EXPLANATORY MEMORANDUM

1. INTRODUCTION - THE CASE FOR REFORM

1.1. A Financing System which has not been reformed since 1988

The proposal on the next Multiannual Financial Framework period offers the opportunity to modernise the EU's financial framework. As indicated in the Communication 'A Modern Budget for a Union that Protects, Empowers and Defends: The Multiannual Financial Framework for 2021-2027'¹ the Union is facing the need to fund new Union priorities and European public goods. At the same time, economic changes and globalisation are posing new challenges for national tax systems, and there are new policies which can be strengthened by providing financial incentives for them at EU level. Moreover, many have called for a reform of the revenue side of the budget in order to increase its clarity, fairness and transparency.

In this context, the revenue side of the EU budget cannot be isolated from the major EU developments. A sharper focus on public goods of a European dimension as well as efficient and sound management of public finances must characterise the expenditure side of the EU budget, but must also become a hallmark of revisions on the revenue side.

The EU budget is driven by the expenditure side rather than determined by the availability of revenue. This means that the revenue side of the budget is adjusted mostly automatically depending on the expenditure level, according to the rules set out in the Own Resources legislation. Overall, the 'Own Resources' system has to ensure a reliable and resilient framework that fully complies with the equilibrium principle.

The current Own Resources system rests on three main categories of revenue: (i) so-called Traditional Own Resources (mainly customs duties); (ii) a Value Added Tax-based Own Resource; and (iii) the Gross National Income-based Own Resource. While Traditional Own Resources are a direct source of revenue to the EU budget and thus have been identified as a 'genuine' EU Own Resource, the latter two categories are in essence national contributions to be made available by the Member States to the EU budget. The Gross National Income-based Own Resource was established as a 'residual' keystone of the Own Resources system to ensure full funding of the agreed expenditure. However, over time it has become the system's predominant component. It accounts for more than 70% of EU revenue. It provides stability and sufficiency but its predominance perpetuates the perception that national contributions to the EU budget are a mere cost factor.

The overall financing system has proven difficult to reform. According to Article 311 of the Treaty on the Functioning of the European Union, the Union 'shall provide itself with the means to attain its objectives and carry through its policies'. The Own Resources Decision based on this Article provides a solid legal basis for the system of financing the EU budget. Unanimity of Member States and ratification by national parliaments are required to do justice to the high stakes at hand. At the same time, this is also a high procedural hurdle to overcome for decision makers even if the case for reform is convincing to most. It is no coincidence that the last substantial, qualitative change in the Own Resources system dates back to the 1980s when the so-called 'Delors packages' were adopted and the Gross National Income-based component was introduced to underpin the increase of expenditure related to implementing the Single Market and the enlargement to new Member States.

¹ COM(2018) 321.

In 2011, the Commission proposed new Own Resources in order to contribute to Member States' fiscal consolidation efforts against the background of the financial crisis². It proposed to simplify the Value Added Tax-based Own Resource and to create a new Own Resource based on a Financial Transaction Tax. The European Parliament supported the Commission proposals. While the necessary unanimous agreement among Member States could not be mustered, there was broad agreement on the need for reform. Acknowledging that the system could be improved, the European Council Conclusions of 7 and 8 February 2013 called upon the Council to continue working on the Commission's proposals.

1.2. The Need for Reform

The High Level Group on Own Resources was created as part of the final agreement on the 2014-2020 Multiannual Financial Framework in December 2013 when the Council, the European Parliament and the Commission adopted a 'Joint Declaration on Own Resources'. The Joint Declaration stated that the question of Own Resources required further work and that an inter-institutional high level group would be convened to undertake a general review of the Own Resources system. The group submitted its final report in December 2016³. Its recommendations included introducing new categories of Own Resources with a closer link to EU policies and discontinuing correction mechanisms.

The Commission adopted a 'Reflection Paper on the Future of EU Finances' in June 2017⁴. The paper proposes a range of options where Own Resources would be linked more visibly to EU policies, in particular the Single Market and sustainable growth. The paper stated that when introducing new Own Resources, attention should be paid to (i) their transparency, simplicity and stability; (ii) their consistency with EU policy objectives; (iii) their impact on competitiveness and sustainable growth; and (iv) their equitable breakdown among Member States. In February 2018, the Commission⁵ reaffirmed that a reform of the revenue side of the EU budget would help to focus the debate on objectives and on those areas where the European Union can deliver real added value.

In March 2018, the European Parliament adopted a Resolution on the reform of the EU's system of Own Resources⁶. In line with the key messages of the final report of the High Level Group on Own Resources ('Monti Report'), the Resolution highlights the shortcomings in the present way of financing the EU budget and makes a plea for far-reaching reforms, calling in particular for the introduction of different new categories of Own Resources and the discontinuation of all corrections.

1.3. Proposal for a Reform of the Financing System: addressing EU economic and environmental Challenges

Today, the array of new political priorities with budgetary consequences and the United Kingdom's withdrawal from the EU call for particular attention to the architecture of the Own Resources system. In addition, digitalisation, globalisation and other economic developments are posing challenging for national statistical authorities. Therefore larger and more frequent revisions of the 'Gross National Income' data to adequately reflect the national income of the different economies are to be expected. In the general context of taxation, market integration,

² COM(2011) 510 final.

³ Future Financing of the EU. Final report and recommendations of the High Level Group on Own Resources. December 2016.

⁴ COM(2017) 358 final.

⁵ COM(2018) 98 final.

⁶ P8_TA-PROV(2018)0076, Reform of the European Union's system of Own Resources – G. Deprez and J. Lewandowski.

free movement of capital and the rise of intangibles have led to questions about the adequacy of national taxation frameworks to properly address the developments in these fields. Finally, climate change and environmental pollution generate negative externalities which require a response at EU level, if not at global level.

Beyond the basic requirement of providing sufficient revenue to cover spending, the Own Resources system should be reformed to help address these new challenges and designed in a way that yields more benefits than just a regular stream of fiscal income. Building on the existing financing system, the Commission also proposes to modernise the revenue side of the EU budget by simplifying the existing Value Added Tax-based Own Resource, diversifying the revenue sources and increasing the synergies between the EU and national budgets.

The present proposal does not create any new tax for EU citizens. The EU does not have the power to levy taxes. Therefore, the introduction of new categories of Own Resources fully respects national fiscal sovereignty. Existing tax instruments are mainly deployed at national level, although in certain areas the European Union provides rules to harmonise the way taxes are applied. This improves fairness for citizens and companies in the different EU countries while also providing means to capture fiscal revenues which cannot be captured by national authorities. Attributing a share of certain, harmonised tax bases or other sources anchored in EU policies or legislation to the EU budget is a way to improve the synergies between EU and national economies.

The present proposal maintains strict budget discipline through the principle of a balanced budget. However, the interaction between different Own Resources is a potential source of synergy which has not been fully exploited so far. This will make better use of the possibilities offered by the Treaty insofar as different types of Own Resources – national contributions, a share of existing or future taxes and genuine EU revenue - offer complementary and mutually reinforcing advantages. By diversifying the sources of revenue, the resilience and adjustability of the EU budget will be increased, which will eventually benefit all Member States.

The present proposal will simplify key elements of the existing EU financing system and make it more transparent. The existing Own Resources will be amended and modernised. The collection costs retained by Member States will be reduced from 20% to their original level of 10%. Corrections will be phased out through a transitional mechanism.

Finally, the deepening of the Economic and Monetary Union requires a specific response on how to help cushion economic shocks. Given the intended scope and purpose of the European Investment Stabilisation Function, the Commission proposes to make available an amount corresponding to a contribution in proportion to the monetary income generated annually in the Eurosystem to help finance the grant component of the European Investment Stabilisation Function. These amounts will be collected from the participating euro area Member States and registered in the EU budget as external assigned revenue.

The Commission proposes to:

1. Modernise existing Own Resources by
 - maintaining the customs duties as **Traditional Own Resources** for the EU unchanged, but decreasing to 10% the percentage the Member States retain as "collection costs";
 - maintaining the Own Resource based on **Gross National Income**, and keeping it as the balancing resource;

- **simplifying the Value Added Tax based Own Resource.**
2. Introduce a basket of new Own Resources consisting of:
 - a share of the relaunched **Common Consolidated Corporate Tax Base**, to be phased in once the necessary legislation has been adopted. This will link the financing of the EU budget directly to the benefits enjoyed by companies operating in the Single Market;
 - a share of the auctioning revenue of the **European Emissions Trading System**: the European Emissions Trading System is a key tool of EU action to reduce greenhouse gas emissions cost effectively and has a direct link with the functioning of the Single Market;
 - a national contribution calculated on the amount of **non-recycled plastic packaging waste**. This will create an incentive for Member States to reduce packaging waste and stimulate Europe's transition towards a circular economy by implementing the European plastics strategy.
 3. Establish the principle that future revenues arising directly from EU policies should flow to the EU budget;
 4. Phase out corrections;
 5. Increase the Own Resources ceiling.

2. MODERNISING EXISTING OWN RESOURCES

2.1. Maintaining Customs Duties (Traditional Own Resources) with lower Collection Costs

'Traditional Own Resources', nowadays consisting primarily of custom duties, accrue directly to the EU budget and are generally considered as arising 'naturally' from the functioning of the customs union and the common external commercial and trade policies. Customs duties are levied on imports of products from non-EU countries, at rates determined in the Common Customs Tariff⁷.

The present level of 20 % collection costs for customs duties can be considered as higher than what would actually be needed as an appropriate incentive for diligent collection of custom duties by national authorities on behalf of the Union. It is therefore proposed to lower the share of collection costs that Member States are allowed to withhold, bringing it down to its traditional level of 10 % while strengthening the financial support for customs equipment and information technology more targeted at the actual needs.

The amounts of customs duties collected and the intensity of controls show different trends. The last Customs Union Performance figures show a decreasing trend for control rates over the last few years whereas the retention rates simultaneously increased from 10 to 25 %. At Union level 2.1 % of imported items were subject to controls during customs clearance in 2016 but this rate varies widely among Member States. Besides, the application of simplified procedures and automation contribute to improving the cost-effectiveness of controls.

⁷ Member States collect the customs duties on behalf of the EU and make them available to the Commission after a deduction of 20 % which can be retained as 'collection costs'. This percentage, which was 10% over the period 1970 to 2000, was raised to 25 % from 2001 onwards. Under the 2014 Own Resources Decision, the percentage was reduced to 20 %, as the result of a political compromise following the Commission proposal to reduce the percentage back to 10 %.

Furthermore, the amounts retained by Member States as collection costs do not always directly support customs activities. Recent developments show that fewer human resources are available in national administrations for performing controls⁸, which means that only a limited part of the available resources is dedicated to customs operations and the inspections of customs duties.

2.2. Maintaining the Gross National Income-based Own Resource and complementing it to better reflect the EU Dimension

Today, the Gross National Income-based Own Resource accounts for the major part of the EU budget's revenue. The merits of stability, sufficiency and adjustability of the present Own Resources – assured in particular through the residual Gross National Income-based contributions – are undisputed. This Own Resource is, therefore, set to remain the foundation of the EU budget's revenue side.

However, recent economic developments are creating a challenge for national authorities when it comes to measuring Gross National Income precisely, which is the first basis for assessing wealth. Globalisation and technical change have brought about profound changes in the structure of firms and the localisation of production. National authorities are facing challenges brought by the dematerialisation of many services, the rapid spread of e-commerce, the growing weight of intangible assets and the large and rapid fluctuations in foreign capital investments. National accounts can be affected, for example, by the swift and massive transfer of intangible assets between countries, decided by large multinational companies in response to tax or regulatory incentives⁹.

As these developments are not always captured by national corporate tax systems or other data sources, this ultimately poses a challenge for both national tax authorities and national statistical authorities. That is one reason why the Commission has launched initiatives on the Common Consolidated Corporate Tax Base and on fair digital taxation. The Common Consolidated Corporate Tax Base will improve the functioning of the Single Market and reduce inefficiencies and distortions linked to tax planning and high compliance costs. The digital services tax is an interim solution to the problem that the current corporate tax rules are inadequate for the digital economy.

Against this background, there is scope for complementing the Gross National Income based Own Resource and reducing its weight in the Union budget through the introduction of a varied and resilient basket of Own Resources, directly related to Union competences and objectives. These new revenue components will provide additional elements that better reflect the fluctuations in Member States' economic cycles and thus underpin the EU budget's proportionality, fairness and stabilising impact.

To preserve the sufficiency, stability and predictability of revenues, the Gross National Income based contribution is set to remain the 'balancing' resource, i.e. the revenue item whose call rate is adjusted depending on the overall revenue need to cover expenditure after taking account of other revenue and the other Own Resources. By implication, the Gross National Income-based resource ensures that the general budget of the Union is always balanced *ex-ante*, i.e. at the stage of adoption. A basket of Own Resources will accentuate the balancing role of the Gross National Income and will ensure a fair burden sharing across Member States.

⁸ Customs Union Performance, 2016.

⁹ Work is ongoing among national statistical authorities relating to Globalisation with regard to consistency, reliability and comparability of treatment of data across the Member States.

2.3. Simplifying the Own Resource based on Value Added Tax

A Value Added Tax -based component has been part and parcel of the Own Resources decision since 1980 and ensures that the EU budget is linked with the Single Market and tax harmonisation. The tax base is sufficiently broad to provide stable and predictable revenue flows.

Under the current system, the Value Added Tax bases of all Member States are harmonised in accordance with EU rules. This requires numerous corrections and compensations as well as the cumbersome computation of a weighted average rate. These bases are then capped at 50 % of the Gross National Income base in order to remedy the regressive aspects of the Value Added Tax -based resource. Finally, a uniform rate of 0.3 % is levied on each Member State's harmonised Value Added Tax base, with the exception of Germany, the Netherlands and Sweden which have a reduced call rate.

The simplification proposed is driven by the following principles: (i) focussing on the standard rated supplies; (ii) streamlining the procedure to calculate the Value Added Tax base and; (iii) applying a uniform call rate on the standard rated base. This new approach comes in response to the call from the European Parliament and the European Court of Auditors to bring the Own Resource closer to the actual Value Added Tax-base and simplify calculations significantly. This will lead to higher transparency and accountability. The simplified Value Added Tax based Own Resource will be fully compatible with the Commission proposal for an action plan on Value Added Tax and subsequent proposals¹⁰.

Revenues stemming from the Value Added Tax Own Resource for the EU budget are currently around EUR 15-20 billion per year, a level which could be maintained with the simplified calculation by adjusting the call rate upwards accordingly.

3. A BASKET OF NEW OWN RESOURCES

The Commission proposes to introduce three new categories of Own Resources. They each have their individual merits and justification, but proposing them as a package brings additional gains.

The 'basket' approach introduces genuine Own Resources which are linked to key EU policies, specifically climate change, environmental policy, plastics strategy, the circular economy and the Single Market. It displays a strong link to EU policies and EU value added. For instance, the problem of tax base erosion and profit shifting, for instance, cannot be tackled adequately at national level alone. In this context, EU initiatives on Value Added Tax and corporate taxation contribute to improving a level playing field for companies and consumers. Similarly, environmental levies can help to correct negative externalities and influence behaviour. For example, climate change and plastic marine litter are problems that are global in nature and need to be addressed at EU level, including through fiscal incentives. The European Union has already set up EU instruments to address these challenges.

A basket of new Own Resources will provide fresh money to the EU budget and can help manage the impact arising from the withdrawal of a significant net contributor to the EU budget. While most of the proposed new revenue sources will not create entirely new revenue streams, they are clearly linked to the EU level and reflect directly or indirectly the added value of the Own Resources system. In terms of estimated revenue, the new Own Resources will provide a significant proportion of the necessary income but they will only replace a part

¹⁰ COM(2016)148 final and subsequent [proposals](#).

of the Gross National Income-based contributions. The taxable bases and the call rates for the Own Resources have been conceived so that on average, over the period 2021-2027, approximately 12 % of the budget will be covered by the new revenue sources.

A basket of new Own Resources, resulting from the diversification of revenue sources, will make the Own Resources system more resilient to fluctuations in individual components. It will also entail a better 'vertical' coherence with national budgets in that it will contain components linked more directly to the environment, consumption and corporate taxation.

Finally, a larger and more diversified basket of Own Resources will be more closely aligned with the cyclical fluctuations of the Member States' economies. As such, the Gross National Income-based Own Resource will continue to play its balancing role, but its function as a balancing item, i.e. its role in smoothing out the variations of the various revenue items, will be all the more pronounced and shared among all Member States. The revenue system will thus ensure a certain degree of burden sharing within the strict framework of budgetary discipline.

3.1. A Common Consolidated Corporate Tax Base-based Own Resource

An Own Resource for the EU budget based on corporate taxation has been a long standing candidate justified by its intrinsic link to benefits provided by the Single Market in which companies operate. While variations in tax rates across Member States as such are not a major obstacle to an Own Resource based on corporate taxation, the lack of a harmonised corporate tax base had so far prevented the European Union from taking specific action in this area. Once adopted, the 2016 Commission proposal for a Common Corporate Tax Base¹¹ and a Common Consolidated Corporate Tax Base¹² will, however, create a harmonised corporate tax system that will make the foundation for a fair and transparent new Own Resource by consolidating and apportioning the consolidated tax base.

An Own Resource based on corporate tax would be justified insofar as multinational enterprises benefit from the freedoms of the Single Market. The Common Consolidated Corporate Tax Base will help Union efforts to tackle tax avoidance. Corporate income tax could make a significant contribution to the EU budget. Once the Common Consolidated Corporate Tax Base has been agreed in line with Commission proposals of 2016, a new Own Resource building on this new base would be easy to implement.

Under the new rules, a contribution based on the corporate tax base, i.e. on corporate profits attributed at national level, will be straightforward. A Common Consolidated Corporate Tax Base will provide stable and relatively large amounts of revenues to EU budget while not interfering with Member States' fiscal prerogatives. The proposed Own Resource based on Common Consolidated Corporate Tax Base would apply a call rate to the common consolidated base itself. With a call rate of 3 % for the EU, the Common Consolidated Corporate Tax Base could bring an annual average of approximately EUR 12 billion over the period. The Own Resource will only be collected once the new tax rules are fully implemented in the Member States.

3.2. EU Emissions Trading System based-Own Resource

With its EU Emissions Trading System the Union has created a common instrument to fight climate change. The EU Emissions Trading System is anchored in common climate objectives, mitigation strategies and international commitments and provides the same price

¹¹ COM(2016) 685 final.

¹² COM(2016) 683 final.

signal to sectors covered across Member States. The EU Emissions Trading System is harmonised at Union level and revenues flow to national budgets.

A contribution from the EU Emissions Trading System to the Union budget as an Own Resource is proposed¹³. This would involve allocating a share of 20 % of certain revenues from the total of allowances available for auctioning to the EU budget.

A significant share of the EU Emissions Trading System's revenues in the lower income Member States comes from the auctioning of allowances redistributed for the purposes of solidarity, growth and interconnections. To ensure fairness, the Own Resource contribution will not be levied on these redistributed allowances. Moreover, the revised EU Emissions Trading System Directive establishes an Innovation Fund to support the development of breakthrough technologies and a Modernisation Fund to modernise the energy sector in the lower income Member States. The amount dedicated to finance the Innovation Fund and the Modernisation Fund¹⁴ will not be subject to the Own Resource contribution either. However, allowances available for auctioning that a Member State can allocate for free to the power sector should be counted towards the Own Resource contribution to ensure that the decision whether or not to make use of that option is based on economic grounds.

Estimated annual average revenues could vary between EUR 1,2 and 3,0 billion depending on the market price for EU Emission Trading System allowances. It could also vary based on the annual auction volume, which depends among other things on the operation of the Emissions Trading System market stability reserve.

3.3. A Plastic Packaging Waste based-Own Resource

On 18 January 2018, the Commission adopted a European Strategy for Plastics in a Circular Economy¹⁵. This strategy will contribute to tackling the environmental problems, in particular by improving the economics of recycling and reducing the leakage of plastic litter into the environment. The strategy also aims to increase plastics sustainability while stimulating and rewarding innovation, competitiveness and job creation. The Communication¹⁶ indicated that measures of a fiscal nature could encourage environmentally friendly behaviours. On 22 March 2018, the Commission organised a roundtable with stakeholders to discuss how the EU budget can contribute to the Plastics strategy. Overall, there was an agreement on the need to reduce plastic pollution by using different means. The introduction of a dedicated new tax at EU level would be problematic from a competitiveness and subsidiarity angle; at the same time, the EU budget's potential role in addressing this problem was broadly acknowledged.

The proposed Own Resource contribution would be directly proportional to the quantity of non-recycled plastic packaging waste generated in each Member State. The contribution will therefore provide an incentive for the Member States to reduce these waste streams. In this way, the EU budget would contribute to meeting the objectives of the Plastic strategy and of the Circular Economy.

The Own Resource contribution would be proportional to the quantity of non-recycled plastic packaging waste reported each year to Eurostat. Member States' contributions to the Own Resource would be calculated by applying a call rate of EUR 0,80/kg call rate to this quantity, which could bring around EUR 7 billion per year.

¹³ The Emissions Trading System allowances for aviation are not subject of the Own Resource contribution.

¹⁴ 2 % of the total EU Emissions Trading System cap

¹⁵ COM(2018)28 final.

¹⁶ COM(2018)28 final.

3.4. Estimated Changes in the Structure of EU Financing by 2027

A comparison of the present revenue composition in 2018 with the structure of revenue over the period of 2021 to 2027 reveals the elements of continuity as well as elements of innovation in the Commission proposal. Under the current system, depending on the year and the stage of the annual budget cycle, the Gross National Income-based Own Resource covers between two thirds and three quarters of total revenue. Once the proposed changes are in place, it is expected to cover between 50 % and 60 % of the total revenue.

Estimated evolution of the structure of EU financing

	Budget 2018		Estimated Average 2021-2027	
	EUR billion	% of total revenue	EUR billion	% of total revenue
Traditional Own Resources	23	15,8 %	26	15 %
Existing national contributions of which	120	82,9 %	128	72 %
(Reformed) Value Added Tax-based Own Resource	17	11,9 %	25	14 %
Gross National Income-based Own Resource	103	71,0 %	103	58 %
New Own Resources of which	-		22	12 %
Own Resource based on the Common Consolidated Corporate Tax Base	-	-	12	6 %
EU Emissions Trading System-based Own Resource	-	-	3	2 %
Plastic packaging waste-based Own Resource	-	-	7	4 %
Total Own Resources	143	98,7 %	176	99 %
Revenue other than Own Resources	2	1,3 %	2	1 %
Total Revenue	145	100,0 %	178	100 %

The amounts for the period 2021-2027 are based on the applicable call rates as set out in the Commission Proposal for a Council Regulation laying down the implementing measures for the system of the Own Resources of the European Union (COM(2018) 327, Article1).

4. ESTABLISHING THE PRINCIPLE THAT FUTURE REVENUES FROM EU POLICIES FLOW TO THE EU BUDGET

There are also other revenues which, despite not falling under this decision, are nonetheless a potentially interesting, supplementary source of budgetary income that should be taken into account when devising the programmes and policies for the next financial framework period.

'Other revenues' score rather high against most of the traditional assessment criteria, with the exception of 'sufficiency and stability'. They are immediately linked with EU policies and legal competences, are easy to administer, and, if earmarked, do not crowd out expenditure under the Multiannual Financial Framework ceilings or Own Resources under the Own Resources ceiling. Furthermore, as they are not transferred from national treasuries, they are not included under the national contributions that would be subsumed into the operating budgetary balances and therefore constitute an independent, 'genuine' EU income source.

It should be a matter of principle that revenue which is directly generated by implementing of EU policy and the enforcing common Union level rules should accrue by default to the EU budget. One example of revenue that could accrue to the EU budget on the basis of legal acts other than the Own Resources Decision or tax harmonisation is the European Travel and Information Authorisation System (ETIAS). The Commission proposal provides for the fees to be paid by visitors to the Schengen area from third countries constitute assigned revenue (to allow for additional appropriations on the related budget lines). These revenues will provide supplementary funding for the operational costs of the European Travel and Information Authorisation System and otherwise support the general budget. Assigned revenue will not be counted against the Own Resources ceiling as it will not be at the expense of national budgets. Other, or 'miscellaneous' revenue which is not earmarked but registered as general revenue (such as fines or late payment interests) will lead to reductions in the Gross National Income-based national contributions.

5. PHASING OUT CORRECTIONS

Mostly for historical reasons, a number of Member States benefited from a complex system of corrections and rebates. The Fontainebleau European Summit in June 1984 concluded that "any Member State sustaining a budgetary burden which is excessive in relation to its relative prosperity may benefit from a correction at the appropriate time". The most important of these mechanisms was the United Kingdom correction which was justified 34 years ago on the grounds of fairness.

In addition to the United Kingdom correction, an increasing number of other correction mechanisms developed over time. Since 2002, Austria, Germany, the Netherlands and Sweden have benefited from the "rebates on the rebate", a permanent reduction in their contribution to the United Kingdom rebate. Additional reductions were also granted to certain Member States whose budgetary burden was still considered excessive. Germany, the Netherlands and Sweden obtained temporary reduced Value Added Tax call rates for the 2014-2020 period. Austria, the Netherlands, Sweden and Denmark also benefited from a lump-sum reduction to Gross National Income-based contributions.

Over time, the amounts of corrections and rebates have increased exceeding, even if not taking into account the rebate for the United Kingdom itself, an amount of EUR 5 billion per year for the current Multiannual Financial Framework. This has made the financing system of the EU budget overly complex and less and less transparent.

The new Multiannual Financial Framework proposal ensures a fair and balanced package. The reform of the revenue side will diversify the revenue sources and include a portfolio of resources which will impact Member States in a fair way. On the expenditure side, the Union budget increasingly focuses on a wide range of expenses with undisputable union added value such as research and innovation, Erasmus, defence and border control. All in all, with the introduction of a basket of Own Resource and with new spending priorities, the Union budget will benefit all Member States in a fair manner without maintaining an obsolete and complex system of corrections. However, in order to avoid a significant and sudden increase in the contributions of Member States having benefitted from corrections, lump sum reductions to their Gross National Income-based contribution are proposed, which will be gradually phased out until 2025. The baseline for determining these lump sum reductions is the sum of corrections granted to these Member States in 2020.

6. INCREASING THE OWN RESOURCES CEILING

The Own Resources Decision also includes a ceiling for annual calls for Own Resources. These are intended to give Member States certainty, shielding them from 'surprises' for their national budgetary and financial planning. At present, this ceiling is set at "1.20% of the sum of all the Member States' Gross National Income ". With Brexit, the value of the amount under this ceiling automatically will decrease by approximately 16% (i.e. the share of the United Kingdom's Gross National Income). In addition, it is important to note that beyond the payment needs under the Multiannual Financial Framework, budgetary resources necessary to cover financial liability linked to loans or financial facilities guaranteed from the EU budget must remain below this ceiling. With the increasing use of such instruments, including for the possible stabilisation instrument for the euro area, this ceiling will likely need to be increased.

The integration of the European Development Fund into the EU budget will need to be accompanied by an increase in the ceilings established in the Own Resources decision. A sufficient margin between the payments and the own resources ceiling is necessary to ensure that the Union is able - under any circumstances - to fulfil its financial obligations, even in times of economic downturns. The Commission proposes to increase the own resources ceilings for payments and commitments to 1,29 % and 1,35 % of the EU-27 gross national income, respectively.

Potential additional contributions by the United Kingdom honouring its obligations assumed as an EU Member State that have to be paid beyond 2020 could reduce the financing needs to be covered by Own Resources, particularly at the beginning of the next Multiannual Financial Framework.

7. THE OWN RESOURCE LEGISLATIVE PACKAGE

7.1. The Legal Framework

The Treaty on the Functioning of the European Union introduced important innovations allowing for significant changes, not only for EU budgetary procedure, but also for the way the EU budget is financed. Two Treaty provisions are of particular relevance for the Commission's proposals:

Article 311(3) of the Treaty on the Functioning of the European Union provides that the Council "may establish new categories of Own Resources or abolish an existing category" in the context of an Own Resources Decision. This provision explicitly allows for the creation of new Own Resources.

Article 311(4) of the Treaty on the Functioning of the European Union newly provides that the "Council, acting by means of regulations in accordance with a special legislative procedure, shall lay down implementing measures for the Union's Own Resources system in so far as this is provided for in the [Own Resources] decision". This provision introduces the possibility of setting specific implementing measures related to the Own Resources system in an implementing regulation within the limits set out by the Own Resources Decision.

The present Commission proposals make full use of these possibilities by initiating the creation of several new Own Resources, and by proposing to include a variety of provisions in an implementing regulation under Article 311(4).

This approach intends to make the system sufficiently flexible within the framework and limits set out by the Own Resources Decision by placing all the practical arrangements for the Union's resources which should be governed by a more streamlined procedure in an implementing regulation rather than in the Decision itself. These proposals reflect the

intentions of the lawmaker, as expressed in the Convention on the future of Europe and endorsed by the subsequent intergovernmental conference¹⁷.

Where required, the necessary basic acts and data for the tax-based or 'contribution-based' Own Resources and their calculation giving rise to the revenue streams, already exist or have been proposed. They are all closely linked with areas which have a clear Union policy dimension such as the Single Market or environmental protection.

7.2. Key Elements of the Own Resource Decision

The Own Resources Decision itself sets: (i) the categories of Own Resources to be entered in the budget of the Union; (ii) the maximum call rates to be applied ; (iii) the Own Resources ceilings; (iv) correction mechanisms (if deemed necessary) and how to finance them; and (v) certain budgetary principles. The Decision also has to list the provisions that may be covered by the implementing measures. Finally, the Decision stipulates transitional measures.

7.3. The Implementing Regulation

The proposed implementing regulation pursuant to Article 311(4) Treaty on the Functioning of the European Union, contains all those practical arrangements and technical details for the Union's resources which should be governed by a more streamlined procedure in order to make the system sufficiently flexible under the framework and limits set out by the Own Resource Decision. It does not include aspects of the Own Resources system that relate to the making available of the Own Resources and to meeting cash requirements (see Section 6.4 below).

The Implementing Regulation is also to include provisions of a general nature, applicable to all types of Own Resources and for which appropriate parliamentary oversight is particularly important. They mainly cover matters of control and supervision of revenues and the related powers of Commission inspectors.

Accordingly, the following provisions, set out in accordance with the list drawn in the Own Resources Decision, can be found in the Implementing Regulation:

- (1) the call rates applicable for each of the Own Resources established in the Decision. This allows limited flexibility within the limits set out in the Own Resources Decision. Without such flexibility, the ability to make necessary and timely adjustments to Own Resources would be impaired by the onerous and lengthy procedure laid down for the adoption of Own Resources Decisions;
- (2) the reference Gross National Income pursuant to the European system of national and regional accounts (ESA) and the provisions in case of significant changes thereto (the refinement of Gross National Income measurements in the context of revisions to the European system of national and regional accounts can impact upon the Own Resources ceilings);
- (3) the adjustment for the annual budgetary balance. Whereas the general principle of surplus carry-over is set out in the Decision, the implementation measures are set out in the regulation;
- (4) the provisions concerning control and supervision, including supplementary reporting requirements.

¹⁷ See in particular the "Final report of the discussion circle on Own Resources" to the European Convention, CONV 730/03, 08/05/2003.

Combined with the Own Resources Decision, the Implementing Regulation ensures that any technical adjustment to the system will be subject not only to approval by the Member States, but also to the consent of the European Parliament.

7.4. The Making Available Regulation

Beyond the implementing measures mentioned above, the operational requirements for making available the Own Resources to the EU budget and the Commission's accounts are specified in a Council regulation pursuant to Article 322(2) of the Treaty on the Functioning of the European Union. The package of legislative proposals therefore also comprises an additional Making Available Regulation with new provisions on the methods to calculate and make available the Own Resources based on the Common Consolidated Corporate Tax Base, the EU Emissions Trading System and plastic packaging waste that is not recycled.

Proposal for a

COUNCIL DECISION

on the system of Own Resources of the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the third paragraph of Article 311 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The Own Resources System of the Union must ensure adequate resources for the orderly development of the policies of the Union, subject to the need for strict budgetary discipline. The development of the Own Resources System can and should also participate, to the greatest extent possible, in the development of the policies of the Union.
- (2) The European Council of 7 and 8 February 2013 called upon the Council to continue working on the proposal of the Commission for a new Own Resource based on Value Added Tax to make it as simple and transparent as possible, to strengthen the link with Union Value Added Tax policy and the actual Value Added Tax receipts, and to ensure equal treatment of taxpayers in all Member States.
- (3) In June 2017 the Commission adopted a Reflection Paper on the Future of EU Finances¹⁸. The Commission proposes a range of options linking Own Resources more visibly to Union policies, in particular the single market and sustainable growth. According to the paper, in introducing new Own Resources, it is necessary to pay attention to their transparency, simplicity and stability, their consistency with Union policy objectives, their impact on competitiveness and sustainable growth and their equitable breakdown among Member States.
- (4) The Lisbon Treaty introduced changes to the provisions related to the Own Resources system, which enable reducing the number of existing resources and to creating new Own Resources.
- (5) The present system for determining the Value Added Tax-based Own Resource has been repeatedly criticised by the Court of Auditors, the European Parliament and

¹⁸ COM(2017)358 final of 28 June 2017.

Member States as overly complex. It is therefore appropriate to simplify the calculation of that Own Resource.

- (6) In order to better align the Union's financing instruments with its policy priorities, to better reflect the Union's budget role for the functioning of the Single Market, to better support the objectives of Union policies and to reduce Member States' Gross National Income-based contributions to the Union's annual budget, it is necessary to introduce new categories of Own Resources based on the Common Consolidated Corporate Tax Base, the national revenue stemming from the European Union Emissions Trading System and a national contribution calculated on the basis of non-recycled plastic packaging waste.
- (7) The European Single Market greatly benefits companies that operate in more than one Member State. However, the heterogeneity of tax systems across the Union creates an unfair advantage for companies that can avoid paying corporate taxes where they create value. The 2016 Commission proposals¹⁹ for a Common Corporate Tax Base and a Common Consolidated Corporate Tax Base address this unfairness by restoring a level playing field. The Own Resource should consist in applying a uniform call rate to the share of taxable profits attributed to each Member State pursuant to Union rules on Common Consolidated Corporate Tax Base. The Own Resource should only apply to the entities for whom the Union rules on the Common Consolidated Corporate Tax Base are mandatory.
- (8) The Union considers as a priority to achieve its emission reduction target of at least 40% between 1990 and 2030 as committed under the Paris Climate Agreement. The European Union Emissions Trading System is one of the main instruments put in place to implement this objective and generates revenue through the auctioning of emission allowances. Considering the harmonised nature of the European Union Emissions Trading System as well as the funding provided by the Union to foster mitigation and adaptation efforts in the Member States, it is appropriate to introduce a new Own Resource for the EU budget in this context. This Own Resource should be based on the allowances to be auctioned by Member States, including transitional free allocation to the power sector. In order to take account of the specific provisions for certain Member States provided for in Directive 2003/87/EC of the European Parliament and of the Council²⁰, allowances redistributed for the purposes of solidarity, growth and interconnections as well as allowances dedicated to the Innovation Fund and the Modernisation Fund should not be counted for determining the Own Resource contribution.
- (9) In line with the Union strategy on plastics, the Union budget can contribute to reduce pollution from plastic packaging waste. An Own Resource which is based on a national contribution proportional to the quantity of plastic packaging waste that is not recycled in each Member State will provide an incentive to reduce the consumption of single-use plastics, foster recycling and boost the circular economy. At the same time, Member States will be free to take the most suitable measures to achieve those goals, in line with the principle of subsidiarity.

¹⁹ COM (2016) 683 of 25.10.2016.

²⁰ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

- (10) It is necessary to avoid that Member States which benefit from corrections are confronted with a significant and sudden increase in their national contributions. It is therefore necessary to provide for temporary corrections in favour of Austria, Denmark, Germany, the Netherlands and Sweden by means of lump sum reductions to their Gross National Income-based contributions during a transitional period. Those corrections should be phased out by the end of 2025.
- (11) The retention, by way of collection costs, of 20 % of the amounts collected by the Member States for traditional Own Resources constitutes a high share of Own Resources not being made available to the Union Budget. The collection costs retained by Member States from the traditional Own Resources should be restored from 20% to the original level of 10% to better align financial support for customs equipment, staff and information with the actual costs and needs.
- (12) In accordance with the fourth paragraph of Article 311 of the Treaty on the Functioning for the European Union the Council is to lay down implementing measures for the Union's Own Resources system. Such measures should include provisions of a general and technical nature, applicable to all types of Own Resources and for which appropriate parliamentary oversight is particularly important. Those measures should include detailed rules for establishing the amounts of the Own Resources referred to in Article 2(1) to be made available, including the applicable call rates for the Own Resources referred to in points (b) to (e) of Article 2(1), the technical issues related to Gross National Income, the provisions and arrangements necessary for controlling and supervising the collection of Own Resources, including rules on inspections and on powers of officials and other servants authorised by the Commission to carry out inspections and any relevant reporting requirements.
- (13) The integration of the European Development Fund into the EU budget will need to be accompanied by an increase in the ceilings established in the Own Resources decision. A sufficient margin between the payments and the own resources ceiling is necessary to ensure that the Union is able - under any circumstances - to fulfil its financial obligations, even in times of economic downturns. The Own Resources ceiling should therefore be increased to a level of 1,29 % of the sum of the Member States' Gross National Income at market prices for appropriations for payments and of 1,35 % for the appropriations for commitments.
- (14) For reasons of coherence, continuity and legal certainty, it is necessary to lay down provisions to ensure smooth transition from the system introduced by Decision 2014/335 EU, Euratom to that provided for in this Decision.
- (15) For the purposes of this Decision, all monetary amounts should be expressed in euros.
- (16) In order to ensure transition to the revised system of Own Resources and to coincide with the financial year, this Decision should apply from 1 January 2021. The provisions concerning the contribution based on the Common Consolidated Corporate Tax Base should, however, not be subject to retroactive application and should be deferred given that Union rules on the Common Consolidated Corporate Tax Base are not yet adopted.

HAS ADOPTED THIS DECISION:

Article 1
Subject matter

This Decision lays down rules on the allocation of Own Resources to the Union in order to ensure the financing of the Union's annual budget.

Article 2
Categories of Own Resources

1. Revenue from the following shall constitute Own Resources entered in the budget of the Union:
 - (a) Traditional Own Resources consisting of levies, premiums, additional or compensatory amounts, additional amounts or factors, Common Customs Tariff duties and other duties established or to be established by the institutions of the Union in respect of trade with third countries, customs duties on products under the expired Treaty establishing the European Coal and Steel Community, as well as contributions and other duties provided for within the framework of the common organisation of the markets in sugar;
 - (b) the application of a uniform call rate to a share of Value Added Tax receipts collected from the standard rated taxable supplies divided by the national Value Added Tax standard rate; the actual call rate shall not exceed 2 %;
 - (c) the application of a uniform call rate to the share of taxable profits attributed to each Member State pursuant to Union rules on the Common Consolidated Corporate Tax Base; the actual call rate shall not exceed 6 %;
 - (d) the application of a uniform call rate to the amount representing the revenue generated by the allowances to be auctioned referred to in Article 10(2)(a) of Directive 2003/87/EC and the market value of transitional free allowances for the modernisation of the energy sector as determined in Article 10c(3) of that Directive; the actual call rate shall not exceed 30 %.
 - (e) the application of a uniform call rate to the weight of plastic packaging waste that is not recycled; the actual call rate shall not exceed EUR 1,00 per kilogram;
 - (f) the application of a uniform call rate, to be determined pursuant to the budgetary procedure in the light of the total of all other revenue, to the sum of Gross National Income of all the Member States.

For the purposes of point (c) of the first subparagraph, the uniform call rate shall apply only to the profits of the tax payers for whom the Union rules on the Common Consolidated Corporate Tax Base are mandatory.

For the purposes of point (f) of the first subparagraph, the uniform call rate shall apply to the Gross National Income of each Member State.

Austria shall benefit from a gross reduction in its annual Gross National Income-based contribution of EUR 110 million in 2021, EUR 88 million in 2022, EUR 66 million in 2023, EUR 44 million in 2024, and EUR 22 million in 2025. Denmark shall benefit from a gross reduction in its annual Gross National Income-based contribution of EUR 118 million in 2021, EUR 94 million in 2022, EUR 71 million in 2023, EUR 47 million in 2024, and EUR

24 million in 2025. Germany shall benefit from a gross reduction in its annual Gross National Income-based contribution of EUR 2 799 million in 2021, EUR 2 239 million in 2022, EUR 1 679 million in 2023, EUR 1 119 million in 2024, and EUR 560 million in 2025. The Netherlands shall benefit from a gross reduction in its annual Gross National Income-based contribution of EUR 1 259 million in 2021, EUR 1 007 million in 2022, EUR 755 million in 2023, EUR 503 million in 2024, and EUR 252 million in 2025. Sweden shall benefit from a gross reduction in its annual Gross National Income-based contribution of EUR 578 million in 2021, EUR 462 million in 2022, EUR 347 million in 2023, EUR 231 million in 2024, and EUR 116 million in 2025. Those amounts shall be measured in 2018 prices and adjusted to current prices by applying the most recent Gross Domestic Product deflator for the Union expressed in euros, as provided by the Commission, which is available when the draft budget is drawn up. Those gross reductions shall be financed by all Member States.

2. Revenue deriving from any new charges introduced within the framework of a common policy, in accordance with the Treaty on the Functioning for the European Union, provided that the procedure laid down in Article 311 of that Treaty has been followed, shall also constitute Own Resources entered in the budget of the Union.
3. If, at the beginning of the financial year, the budget has not been adopted, the previous Gross National Income rates of call shall continue to apply until the entry into force of the new rates.

Article 3
Own Resources ceiling

1. The total amount of Own Resources allocated to the Union to cover annual appropriations for payments shall not exceed 1,29 % of the sum of all the Member States' Gross National Incomes.
2. The total annual amount of appropriations for commitments entered in the Union's budget shall not exceed 1,35 % of the sum of all the Member States' Gross National Incomes.
3. An orderly ratio between appropriations for commitments and appropriations for payments shall be maintained to guarantee their compatibility and to enable the ceiling set in paragraph 1 to be complied with in subsequent years.

Article 4
Universality principle

The revenue referred to in Article 2 shall be used without distinction to finance all expenditure entered in the Union's annual budget.

Article 5
Surplus carry-over

Any surplus of the Union's revenue over total actual expenditure during a financial year shall be carried over to the following financial year.

Article 6

Collecting Own Resources and making them available to the Commission

1. The Union's Own Resources referred to in Article 2(1)(a) shall be collected by the Member States in accordance with the national provisions imposed by law, regulation or administrative action. Member States shall, where appropriate, adapt those provisions to meet the requirements of Union rules.

The Commission shall examine the relevant national provisions communicated to it by Member States, transmit to Member States the adjustments it deems necessary in order to ensure that they comply with Union rules and report, if necessary, to the budgetary authority.

2. Member States shall retain, by way of collection costs, 10 % of the amounts referred to in Article 2(1)(a).
3. Member States shall make the resources provided for in Article 2(1) of this Decision available to the Commission, in accordance with regulations adopted under Article 322(2) of the Treaty on the Functioning of the European Union.

Article 7

Implementing measures

The Council shall, in accordance with the fourth paragraph of Article 311 Treaty on the Functioning of the European Union, lay down implementing measures as regards the following elements of the Own Resources system:

- (a) rules for establishing the amounts of the Own Resources referred to in Article 2(1) to be made available, including the applicable call rates for the Own Resources referred to in points (b) to (e) of Article 2(1), within the limits set in those points as well as the calculation of the applicable rate of the Own Resource based on Gross National Income referred to in Article 2(1)(f);
- (b) the provisions and arrangements necessary for controlling and supervising the collection of revenue referred to in Article 2(1), including rules on inspections and on powers of officials and other servants authorised by the Commission to carry out inspections and any relevant reporting requirements;
- (c) the reference Gross National Income, the provisions to adjust Gross National Income and the provisions to recalculate the ceilings for payments and commitments in case of significant changes to Gross National Income, for the purposes of applying Article 2(1)(f) and Article 3;
- (d) the procedure for calculating and budgeting the annual budgetary balance as set out in Article 5.

Article 8

Final and transitional provisions

1. Subject to paragraph 2, Decision 2014/335/EU, Euratom, is repealed. Any references to the Council Decision 70/243/ECSC, EEC, Euratom²¹, to Council Decision

²¹ 70/243/ECSC, EEC, Euratom: Council Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (Official Journal L 094, 28/04/1970, p. 0019 – 0022).

85/257/EEC, Euratom²², to Council Decision 88/376/EEC, Euratom²³, to Council Decision 94/728/EC, Euratom²⁴, to Council Decision 2000/597/EC, Euratom²⁵, to Council Decision 2007/436/EC, Euratom²⁶ or to Decision 2014/335/EU, Euratom²⁷ shall be construed as references to this Decision and shall be read in accordance with the correlation table set out in the Annex to this Decision.

2. Articles 2, 4 and 5 of Decision 94/728/EC, Euratom, Articles 2, 4 and 5 of Decision 2000/597/EC, Euratom, Articles 2, 4 and 5 of Decision 2007/436/EC, Euratom and Articles 2, 4 and 5 of Decision 2014/335/EU, Euratom shall continue to apply to the calculation and adjustment of revenue accruing from the application of a rate of call to the Value Added Tax base determined in a uniform manner and limited between 50% and 55% of the GNP or GNI of each Member State, depending on the relevant year, to the calculation of the correction of budgetary imbalances granted to the United Kingdom in the years 1995 to 2020 and to the calculation of the financing of the corrections granted to the United Kingdom by other Members States.
3. Member States shall continue to retain, by way of collection costs, 10% of the amounts referred to in Article 2(1)(a) which should have been made available by the Member States before 28 February 2001 in accordance with the applicable Union rules.
4. Member States shall continue to retain, by way of collection costs, 25% of the amounts referred to in Article 2(1)(a) which should have been made available by the Member States between 1 March 2001 and 28 February 2014 in accordance with the applicable Union rules.
5. Member States shall continue to retain, by way of collection costs, 20% of the amounts referred to in Article 2(1)(a) which should have been made available by the Member States between 1 March 2014 and 28 February 2021 in accordance with the applicable Union rules.
6. For the purposes of this Decision, all monetary amounts shall be expressed in euros.

Article 9 *Entry into force*

Member States shall be notified of this Decision by the Secretary-General of the Council.

²² 85/257/EEC, Euratom: Council Decision of 7 May 1985 on the Communities' system of own resources (Official Journal L 128, 14/05/1985, p. 0015 – 0017).

²³ Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources (Official Journal L 155, 07/06/1989, p. 0001 – 0008).

²⁴ 94/728/EC, Euratom: Council Decision of 31 October 1994 on the system of the European Communities' own resources (Official Journal L 293, 12/11/1994, p. 0009 – 0013).

²⁵ 2000/597/EC, Euratom: Council Decision of 29 September 2000 on the system of the European Communities' own resources (Official Journal L 253, 07/10/2000, p. 0042 – 0046).

²⁶ 2007/436/EC, Euratom: Council Decision of 7 June 2007 on the system of the European Communities' own resources (Official Journal L 163, 23.6.2007, p. 17–21).

²⁷ Council Decision of 26 May 2014 on the system of own resources of the European Union (2014/335/EU, Euratom) (Official Journal L 168, 7.6.2014, p. 105–111).

Member States shall notify the Secretary-General of the Council without delay of the completion of the procedures for the adoption of this Decision in accordance with their respective constitutional requirements.

This Decision shall enter into force on the first day of the second month following receipt of the last of the notifications referred to in the second paragraph.

It shall apply from 1 January 2021.

However, Article 2(1)(c) and the second subparagraph of Article 2(1) of this Decision shall apply from 1 January of the second year following the date of application of national provisions transposing the Council Directive on a Common Consolidated Corporate Tax Base.

Article 10
Publication

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

Done at Brussels,

For the Council
The President