## STANDARD FORM OF EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION AND DOCUMENTS

**8353/18 - COMMUNICATION FROM THE COMMISSION A Modern Budget for a Union that Protects, Empowers and Defends The Multiannual Financial Framework for 2021-2027**

**8353/18 ADD1 - ANNEX to the COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS A Modern Budget for a Union that Protects, Empowers and Defends the Multiannual Financial Framework for 2021-2027**

**8353/18 ADD 2 - COMMISSION STAFF WORKING DOCUMENT Spending Review Accompanying the document COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS A Modern Budget for a Union that Protects, Empowers and Defends The Multiannual Financial Framework for 2021-2027**

**8354/18 - Proposal for a COUNCIL REGULATION laying down the multiannual financial framework for the years 2021 to 2027**

**8354/10 ADD 1 - ANNEX to the proposal for a COUNCIL REGULATION laying down the multiannual financial framework for the years 2021-2027**

**8355/18 - Proposal for a Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management**

**8356/18 - Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States**

**8357/18 - Proposal for a Council Decision on the system of Own Resources of the European Union**

**8358/18 - Proposal for a Council Regulation on the methods and procedure for making available the Own Resources based on the Common Consolidated Corporate Tax Base, on the European Union Emissions Trading System and on Plastic packaging waste that is not recycled, and on the measures to meet cash requirements**

**8359/18 - Proposal for a Council Regulation laying down implementing measures for the system of Own Resources of the European Union**

**8360/18 - Proposal for a Council Regulation amending Regulation (EEC, Euratom) No 1553/89 on the definitive uniform arrangements for the collection of own resources accruing from value added tax**

Submitted by HM Treasury on 18 June 2018

**SUBJECT MATTER**

Overview

1. On 2 May, the Commission published several documents covering its proposal for the 2021-2027 Multiannual Financial Framework (MFF). The proposed date of application is 1 January 2021 and the Commission notes that the proposals are presented for the 27 Member States and in line with the notification by the UK of its intention to withdraw from the European Union.

2. This explanatory memorandum (EM) summarises the collection of publications listed in the title of this document. The first section covers detail on the expenditure proposals and the second section covers the revenue proposals.

**Expenditure**

Size and Structure of the MFF

3. The 2021-2027 MFF proposals amount to an overall commitments ceiling of €1,134.6 billion (£994.8bn[1]) in 2018 prices. The Commission note that this is equivalent to 1.11% of EU GNI. The proposals set out a corresponding payments ceiling of €1,104.8bn (£968.7bn) in 2018 prices, equivalent to 1.08% of EU GNI.

4. The Commission argue that the structure of the proposed expenditure 'headings' for the new MFF reflects a more streamlined and transparent budget, focused on clear policy priorities. The next MFF is structured under seven expenditure headings:
    - Single Market, Innovation and Digital
    - Cohesion and Values
    - Natural Resources and the Environment
    - Migration and Border Management
    - Security and Defence
    - Neighbourhood and the World
    - European Public Administration

5. There are some notable changes in allocations to programmes and policy areas when compared with the previous 2014-2020 MFF: research and innovation funding would increase by 21%; Erasmus + would increase by 77%; migration and border management spending would increase to €21bn (£18bn); while the budget for security and defence would increase by €17bn (£14bn), primarily driven by the addition of new programmes, namely the European Defence Fund and the Military Mobility. Some traditional priorities would be cut, with proposed decreases to both agriculture and cohesion funds by 21% and 46% respectively. Whereas, structural funds are due to grow by 3%. Traditional areas continue to represent much of EU expenditure, around 60% of the budget.[2]

[1] Exchange rate at May 31st 2018: €1 = £0.87680
[2] All figures and comparisons in 2018 prices and based on Commission data and UK calculations

6. The expenditure proposals also include: a set of budget flexibilities to assist the Commission with managing expenditure; enhanced conditionality relating to rule of law; and provisions for how the European institutions work together on budgetary matters and sound financial management.

Heading 1: Single Market, Innovation and Digital

7. The EU suggests spending of €166,303 million[3] (£145,681mn) over the MFF under this heading, which is split into four key areas: Research and Innovation, Strategic Investments, the Single Market, and Space.

8. The main elements of Heading 1 include:

   - Research and Innovation – This will build on the Horizon 2020 programme to promote research excellence and strengthen the focus on innovation. There will also be a new European Innovation Council to provide support for high potential and disruptive innovators.

   - Strategic Investments – The Connecting Europe Facility will continue investment in transport, digital and energy infrastructure. There will also be a new Digital Europe Programme to support projects in key areas such as artificial intelligence, supercomputers and cyber security and to provide investment in digital skills. This programme aims to help develop the Digital Single Market. The Commission also proposes to set up a new investment fund, InvestEU, in which all centrally managed financial instruments will be consolidated, reducing overlaps between current instruments and lessening the administrative burden.

   - Single Market – The Commission proposes a new Single Market Programme to supports the effective functioning of the Single Market by ensuring cooperation between authorities, and the provision of services to citizens and businesses, in particular small and medium-sized enterprises. It brings together actions such as Competitiveness and Small and Medium-sized Enterprises (COSME) and Food Safety.

   - Space – The Commission proposes integrating the space programmes to improve efficiency and provide a single framework for future investment in this field.

Heading 2: Cohesion and Values

9. The Commission proposes to spend €391,974mn (£343,698mn) under this heading. The heading focuses on Structural and Cohesion Funds, Economic and Monetary Union programmes, and cultural programmes, including Erasmus+, aimed at creating a more cohesive Europe.

10. The main elements of Heading 2 include:

   - The European Regional Development Fund (ERDF) and Cohesion Fund - The Commission intends to continue these programmes to reduce

[3] All figures for overall heading expenditure presented in 2018 prices

disparities within the Union. The proposal suggests a total envelope of €273,000mn[4] (£239,366mn) of which €226,308mn (£198,426mn) is allocated to ERDF and the remainder would be allocated to the Cohesion Fund. The Commission intends to propose the continuation of cross-border programmes supporting peace and reconciliation in Northern Ireland and the Border Region of Ireland.

- Reform Support Programme - The programme is intended to support the implementation of Structural Funds and is made up of three separate and complementary instruments: The Reform Delivery Tool, Convergence Facility, and Technical Support Instrument. The proposed envelope is €25,000mn (£21,920mn).

- European Social Fund+ - The EU's main instrument to invest in human capital for sustainable economic development. The Commission propose to pool together the scope and resources of the European Social Fund in its present form, the Youth Employment Initiative, the Fund for European Aid to the Most Deprived, the Employment and Social Innovation Programme and the Health Programme under one heading. The envelope proposed for the next MFF is €101,174mn (£88,709mn) of which €100,000mn (£87,680mn) is allocated to the European Social Fund, €761mn (£667mn) to Employment and Social Innovation and €413mn (£362mn) to Health.

- Erasmus+ - There are few changes from the previous programme in the last MFF. The Erasmus+ programme will receive €30bn (£26.3bn) over the MFF to reach more young people from disadvantaged backgrounds.

- European Solidarity Corps - Aims at facilitating the engagement of young people in solidarity activities in Europe and abroad, and at using those opportunities to improve their skills, competences and employability with a view to address concrete societal challenges. The ESC would integrate the current EU Aid Volunteers programme. Total envelope for 2021-2027 MFF is €1,260mn (£1,104mn).

- Justice, Rights and Values - A new EU instrument comprising two funding programmes: the Rights and Values Programme and the Justice Programme. Total envelope for 2021-2027 €947mn (£830mn) of which €642mn (£563mn) is allocated to Rights and Values and €305mn (£267mn) to Justice.

- Creative Europe - Promotes cultural activities across the EU with a focus on Media activities. Total envelope for 2021-2027 MFF is €1,850mn (£1,622mn) of which MEDIA receives €1,200mn (£1,052mn) and Culture €650mn (£569mn)

[4] All figures for programmes and policy allocations presented in current prices

Heading 3: Natural Resources and Environment

11. Heading 3 has a budget allocation of £336,623mn (€295,164mn). It covers agriculture, fishery and the environment. Common Agricultural Policy (CAP) programmes are included in this heading, contributing to its relatively large budget.

12. The main elements of Heading 3 include:

- European Agricultural Guarantee Fund & European Agricultural Fund for Rural Development - A new delivery model will be put in place to bring together the operations under a single programming instrument, the Common Agricultural Policy Strategic Plan. This aims to simplify the process for farmers and administrators. The proposed MFF envelope for 2021-2027 is €365,005mn (£320,036mn) of which the European Agricultural Guarantee Fund receives €286,195mn (£250,935mn) and the European Agricultural Fund for Rural Development receives €78,811mn (£69,110mn).

- European Maritime and Fisheries Fund - The EU's dedicated programme to support a sustainable EU fisheries sector and coastal communities. €6,140mn (£5,383mn) is allocated to this fund in the next MFF.

- International Fisheries Agreements - Allows the EU fishing fleets access to third country waters and requires the financing of compulsory annual contributions deriving from EU membership in Regional Fisheries Management Organisation. The MFF proposes €990mn (£868mn) is allocated to this programme.

- LIFE is the EU Programme for the Environment and Climate Action - It focuses on developing and implementing ways to respond to environment and climate challenges thereby catalysing changes in policy development, implementation and enforcement. Total envelope for MFF 2021-2027 is €5,450mn (£4,778mn), of which the Environment would receive €3,500mn (£3,069mn) and Climate €1,950mn (£1,709mn)

Heading 4: Migration and Border Management

13. Heading 4 has a budget allocation of €30,829mn (€27,032mn) for border management and migration. The Commission proposes to increase support to strengthen the EU’s external borders; to improve the asylum system within the Union and to step up the management and long-term integration of migrants.

14. The main elements of Heading 4 include:

- Migration: The Asylum and Migration Fund will be reinforced to support national authorities providing reception to asylum seekers and migrants upon and in the period immediately after arrival in the EU. It will also support the development of a common asylum and migration policy and effective returns. Total envelope for 2021-2027 €10,415mn (£9,132mn). Furthermore, the Commission proposes to maintain an unallocated reserve for this programme, to be used in crisis and emergency situations. At the same time, the European Border and Coast Guard (FRONTEX) will be strengthened to manage the EU's external borders. Financial support and training will be offered for the national border guard component in Member States.

- Border Management: An Integrated Border Management Fund will provide support to Member States to build and enhance their capacities in securing the common external borders of the Union. The Fund will cover border management, visas and customs control equipment – with the aim of ensuring equivalence in the performance of all Member States in these areas. Total envelope for 2021-2027 €9,318mn (£8,170mn).

Heading 5: Security & Defence

15. Security & Defence has a budget allocation of €24,323mn (€21,327mn). It covers the EU's funding for crisis events and overall security spending within the European Union.

16. The main elements of Heading 5 include:

    - Internal Security Fund – The Commission proposes to reinforce this Fund in order to develop networks and common systems for efficient cooperation between national authorities and to improve the capacity of the Union to face these security threats.

    - Crisis Response – The Commission proposes to increase the resources available – through a reinforced Civil Protection Mechanism and enlarged Emergency Aid Reserve.

    - Defence - The Commission proposes a strengthened European Defence fund to support collaborative actions at each stage of the industrial cycle to improve the competitiveness of the European Defence industry. They also propose a new Military Mobility element of the Connecting Europe Facility which will provide funding to enhance strategic transport infrastructures.

Heading 6: Neighbourhood & The World

17. The total envelope under this heading is €108,929mn (£95,513mn). Heading 6 covers the EU's interaction with other countries and development projects outside of the European Union. The Commission is proposing a major restructuring of the EU's external action instruments to enhance how they work together.

18. The main elements of Heading 6 include:

    - The major change comes with most existing instruments being consolidated into the Neighbourhood, Development and International Cooperation Instrument. Reflecting the need to focus on geographic and thematic priorities, allocations for geographic regions will be ring-fenced, with in-built flexibility will allow for quick response to existing or emerging priorities. It is also proposed that the European Development Fund be brought on-budget.

- A new external investment architecture will allow for incorporation of additional resources from other donors and the private sector.

- Instrument for Pre-Accession Assistance will continue as before, with a slightly increased budget envelope.

- The Humanitarian Aid instrument will also continue as before, with a slightly increased budget envelope, while the EU will continue to offer macrofinancial assistance to address economic crises.

Heading 7: Public Administration

19. This heading covers all EU administration relating to the European Union. The total proposed budget allocation is €75,602m (£66,290m).

Flexibilities within the MFF and off-budget funds

20. The Commission argues that budget flexibility is needed to allow for effective resource allocation and a swift Union response to unforeseen circumstances.

21. The establishment of the flexibility tool box proposal includes the following:

- Maximising flexibility between headings and years, including keeping a sufficient level of unallocated margins, the Commission proposes to use the mechanisms such as the Global Margin for Payments introduced under the current framework.

- The Commission proposes to expand the size and scope of the Global Margin for Commitments in order to establish a “Union Reserve”. This will be financed from margins left available under the ceilings for commitments of the previous financial year, as well as through funds that have been committed to the EU budget but ultimately not spent in the implementation of programmes.

- The European Solidarity Fund and the European Globalisation Fund will be maintained, while increasing the size of the Flexibility Instrument to €1 billion, in 2018 prices) per year. The Emergency Aid Reserve has been increased, and will be able to be mobilised for emergencies within the EU.

- Additionally, the Commission propose to establish the European Investment Stabilisation Function to bridge the gap between existing instruments that target growth, jobs and investment and financial assistance under the European Stability Mechanism. The Function will be used only if national stabilisers are not sufficient to overcome an economic shock, and avoid a situation where Member States are no longer able to finance themselves as they are unable to access markets.

22. In terms of off-budget spending, the Commission argues that under the Treaties the EU budget cannot cover all EU aspects of EU action in external security and defence, thus hindering the effectiveness of action. To address this, the Commission will propose the European Peace Facility. This extra-budgetary funding mechanism will allow the EU to conduct Common Security and Defence Policy missions and provide military and defence assistance to third countries and external partners.

Rule of law

23. The Commission proposes a new regulation on the protection of the Union's budget in the case of generalised deficiencies as regards the rule of law in Member States. The Commission states that the EU needs to be able to adopt measures to prevent any financial loss caused by deficiencies in the rule of law in Member States. This regulation is intended to ensure that respect for the Union's values as a community of law are respected through Union policies.

24. They propose that the Commission should be able to bring forwards proposals for such measures to be agreed by the Council. Any such measures would have to be transparent and proportionate and consideration would have to be given to the impact on individual beneficiaries of EU funding. The regulation proposed would enable the Commission to adopt measures such as:
    - Suspending the approval of programmes;
    - Suspending commitments;
    - Suspending payments to government recipients;
    - Reducing commitments (including through financial corrections or transfers to other spending programmes);
    - Reducing pre-financing;
    - Interruption of payment deadlines; and
    - Suspension of payments.

25. Such measures could be adopted where deficiencies about the rule of law in a Member State could affect the principles of sound financial management or the protection of the EU's financial interests. The proposed regulation gives the following as examples of particular things which may be considered generalised deficiencies of the rule of law:

    - Endangering the independence of the judiciary;

    - Failing to prevent, correct and sanction arbitrary or unlawful decisions by public authorities, including by law enforcement authorities, withholding financial and human resources affecting their proper functioning or failing to ensure the absence of conflicts of interests; and

    - Limiting the availability and effectiveness of legal remedies, including through restrictive procedural rules, lack of implementation of judgments, or limiting the effective investigation, prosecution or sanctioning of breaches of law.

26. The proposed regulation sets out the procedure for the Commission to notify the Member State in question where it believes that such measures should be taken and that the Council, acting by qualified majority, would have the right to reject or amend the Commission's proposal. The Commission would also have to inform the European Parliament of any measures proposed or adopted.

Interinstitutional agreement

27. This document is a proposal for an agreement between the European Parliament, the Council and the Commission (the Institutions) on budgetary discipline, co-operation in budgetary matters and on sound financial management. The agreement covers three areas:

- Provisions on the Multiannual Financial Framework (MFF) and Special instruments:

i) The Institutions agree to ensure that sufficient margins are left beneath the ceilings for the MFF headings and to update forecasts for payments after 2027 taking account of all relevant information;

ii) The Institutions agree that, when the relevant conditions are met, the Commission shall put forward proposals for the European Globalisation Adjustment Fund, European Union Solidarity Fund and the Emergency Aid Reserve. The Commission shall only propose the mobilisation of the Flexibility Instrument after examining all possibilities for re-allocating appropriations under the budget heading which needs further expenditure and shall only propose mobilising the Contingency Margin after analysing all other financial possibilities.

- Interinstitutional co-operation during the budgetary procedure:

i) The Institutions agree how they will co-operate when agreeing budgets and legislative acts concerning multiannual programmes; including information to include in annual reports from the Commission; details of how the financial envelope for programmes will be set out in legislation for multiannual programmes; additional rules on expenditure related to fisheries agreements and details on the financing of the Common Foreign and Security Policy.

- Provisions on the sound financial management of EU funds:

i) The Institutions agree that the Commission shall publish financial programming for Headings I to VI of the MFF setting out the legislation in force and the pending legislative proposals. They should also consider how to cross-reference financial programming and legislative programming to provide more precise, reliable forecasts.

ii) The Institutions agree that the Commission shall produce a complete and objective impact assessment before presenting proposals for creating new agencies, including the budgetary implications of the Agency. The Institutions also agree a procedure for agreeing the establishment of a new agency. The same procedures will apply to the establishment of new European Schools.

## Revenue

Summary of Own Resources proposals

28. The Own Resources legislative package for the 2021-2027 MFF has been proposed by the Commission alongside the expenditure proposals. The Commission propose three new own resources, a simplification of the calculation of the existing Value Added Tax (VAT) based own resource and to phase out corrections for Member States.

29. Regulations 8357/18 and 8359/18 propose the repeal and replacement of the existing own resources legislation; namely, the Own Resources Decision 2014/335 (ORD14) and the regulation covering the practical arrangements for the Union's Own Resources 608/2014. Regulation 8358/18 would complement the existing Making Available Regulation 609/2014, focusing on making available the Commission's proposed new own resources and relevant provisions for cash requirements. Regulation 8360/18 proposes amendment to Regulation 1553/89, and would redefine how the VAT base should be determined for the calculation of own resources.

Changes to Traditional Own Resources (TOR)

30. The Commission propose a reduction in the percentage of TOR (namely customs revenue) retained by Member States, from 20% to 10%.

Changes to the calculation of the VAT base

31. A new, simplified calculation of the VAT-based own resource has been proposed. This focuses on standard-rated supplies and would remove the need for a weighted average rate, minimise the number of corrections and remove financial compensations. For the purposes of calculating Member State VAT-based contributions, the capping of the VAT base at 50% of each Member State's Gross National Income (GNI) would be been removed.

32. In a change from ORD14, the Commission now propose an upper limit of 2% for the call rate to be applied to this new VAT base to determine the VAT own resource for all Member States, and propose a call rate of 1% is applied. This is an increase on the 0.3% currently applied to most Member States (Germany, the Netherlands and Sweden pay a reduced share).

New own resources and call rates

33. The Commission propose three new own resources which could partially fund the 2021-27 MFF. These would be based on a share of taxable profits under a Common Consolidated Corporate Tax Base (CCCTB), a share of the revenue generated by the allowances to be auctioned from the Emissions trading system (ETS) and a notional contribution based on non-recycled plastic packaging waste.

Upper limits for the call rates which would be applied to a CCCTB and revenue from the ETS are set at 6% and 30% respectively, whilst the call rates which would be applied are set at 3% and 20%. An upper limit of a notional contribution of €1.00 per kilogram of plastic packaging waste is set, whilst the rate to be applied is €0.80 per kilogram.

34. Provisions are proposed which would allow the Commission to bring forward up to two-twelfths of contributions under CCCTB and plastic packaging own resources into the first quarter of the year for the purpose of financing the European Agricultural Guarantee Fund (EAGF), and an additional half of one-twelfth into the first six months of the year for the purpose of financing European Structural and Investment Funds. Provisions already exist in Regulation 609/2014 to bring forward the equivalent amounts of GNI and VAT-based own resources.

Phasing out of corrections

35. Under ORD14 the UK receives a reduction in contributions through the UK correction. Germany, the Netherlands, Sweden, Austria and Denmark also reductions to their contributions, through a combination of reductions to their VAT call rates, lump sum reductions in their GNI contributions and a reduced financing share of the UK correction (this is financed by all Member States other than the UK).

36. The Commission proposes to replace the current system of contribution reductions for Germany, Sweden, Austria, the Netherlands and Denmark with annual reductions in contributions, would be reduced to zero over a five-year period from 2021. These reductions would be financed by all Member States.

Own Resources Ceilings

37. The Own Resources ceilings are caps on the theoretical amount of total contributions made by Member States to the EU budget, and appropriations for commitments made in the EU budget for any one year, expressed as a share of GNI. These are separate to the ceilings set out in the MFF for payment and commitment appropriations, which limit the size of the annual budget.

38. In preparation for the UK's exit and the integration of the European Development Fund into the EU budget, the Commission propose increasing the Own Resources ceilings for payments and commitments in the next MFF to 1.29% and 1.35% of Member States' GNI, from 1.23% and 1.29% respectively.

39. The Commission propose allowance to be made for these ceilings to be recalculated in future if there were amendments to Regulation No 549/2013 (Regulation on the European System of national and regional accounts in the European Union) which resulted in significant changes in GNI.

## SCRUTINY HISTORY

40. In April of this year, EM 6229/18 was submitted and covered the European Commission's initial options document with regard to the next MFF.

## MINISTERIAL RESPONSIBILITY

41. The Chancellor of the Exchequer has responsibility for United Kingdom policy on European Union monetary and economic issues. The Secretary of State for the Department for Exiting the European Union and The Foreign and Commonwealth Secretary are responsible for overall United Kingdom policy towards the European Union.

## INTEREST OF THE DEVOLVED ADMINISTRATIONS

42. The EU Budget is a reserved matter under the UK's devolution settlements. Nevertheless, the devolved administrations have been consulted on this EM.

## LEGAL AND PROCEDURAL ISSUES

i. Legal basis

43. The legal basis for own resources decision and implementing measures regulation measures is Article 311 of the Treaty on the Functioning of the European Union. Article 311(3) provides that the Council can create new categories of own resources in an own resources decision. An own resources decision cannot not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements: Article 311 TFEU.

44. The legal basis for the Multiannual Financial Framework regulation is Article 312 TFEU.

45. The legal basis for the making available regulation is Article 322(2) TFEU.

46. The legal basis for the proposed rule of law regulation is Article 322(1)(a) TFEU. This provides for the adoption by regulations of the financial rules which determine the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts.

47. The legal basis for the regulation on the arrangements for the collection of own resources accruing from VAT is Art 322(2).

48. The Justice and Home Affairs (JHA) opt-in is not a consideration in this document.

ii. European Parliament Procedure

49. The Council can only make the own resources decision once it has consulted the European Parliament.

50. The Council can only make the own resources implementing measures, the Multiannual Financial Framework regulation and the making available regulation once it has obtained the European Parliament's consent.

51. The rule of law regulation is subject to the ordinary legislative procedure in the European Parliament.

iii. Voting procedure

52. The own resources decision and MFF regulation require unanimity in the Council.

53. The rule of law regulation, own resources implementing measure, and the making available regulation require a qualified majority.

iv. Impact on United Kingdom Law

54. Were the UK remaining as a Member State then there would be an impact on UK law.

55. Section 7 of the European Union Act 2011 provides that a Minister of the Crown cannot confirm the UK's approval to a decision under the third paragraph of Article 311 of TFEU to adopt a decision laying down provisions relating to the system of own resources of the European Union unless the decision is approved by an Act of Parliament. Had the UK remained a Member State, the UK would therefore be unable to approve the own resources decision without an Act of Parliament.

56. Had the own resources decision been approved, the European Communities Act 1972 would also need to be amended. Payments of own resources are made to the EU under section 2(3). The new own resources decision would need to be added to the list of own resources decisions in section 1(2)(e), so that the UK could make the payments to the EU required by the new own resources decision.

57. As we will no longer be a Member State by the time that Member States are asked to agree to the own resources decision, and not subject to the new own resources decision, these steps will not in fact need to take place.

v. Application to Gibraltar

58. None.

vi. Fundamental rights analysis

59. The Commission consider that by increasing the current level of protection against deficiencies as regards the rule of law, the proposed rule of law regulation will have a positive impact on fundamental rights.

## APPLICATION TO THE EUROPEAN ECONOMIC AREA

60. Not directly applicable.

## SUBSIDIARITY

61. The EU Budget is a matter of exclusive Community competence and the European Commission presents the statement pursuant to treaty and regulation.

## POLICY IMPLICATIONS (including exit implications where appropriate)

62. On 23 June 2016, the EU referendum was held and the people of the United Kingdom voted to leave the European Union. The Government respected the result and triggered Article 50 of the Treaty on European Union on 29th March 2017 to begin the process of exit. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will also continue to negotiate, implement and apply EU legislation.

63. The Joint Report of 8 December 2017[1] on progress during phase 1 of negotiations sets out the principles regarding the UK's rights and obligations in respect of the EU budget following its withdrawal. In the context of the wider Article 50 negotiations, these principles will become legally binding through a Withdrawal Agreement.

64. Negotiations on the next Multiannual Financial Framework are primarily a matter for the 27 remaining Member States, as the UK will no longer be a Member State of the European Union when the next MFF begins in 2021. That said, in line with the agreed approach to EU business, we are participating in the next MFF working group discussions on the basis that the UK is currently a full member of the European Union and we will engage where there are UK interests.

65. In relation to the initial expenditure proposals, which are being supplemented by more detailed sectoral regulations that the Committees will have the opportunity to scrutinise separately, and may change over the course of these negotiations, there are a number of areas where it will be in the UK's and Europe's mutual interest to work together on issues relating to the design of the next Framework and its policies and programmes.

66. For example, as the Prime Minister made clear in Florence and in subsequent speeches, the UK will want to continue working together in ways that promote the long-term economic development of our continent. This includes continuing to take part in those specific policies and programmes which are greatly to the UK and the EU's joint advantage, such as those that promote science, education and culture – and those that promote our mutual security.

67. As the Prime Minister also made clear in relation to any UK participation in policies and programmes in the next MFF, the UK would expect to make an ongoing contribution to cover our fair share of the costs involved and the exact terms would be subject to negotiation.

68. In relation to the revenue proposals, which may also change over the course of these negotiations, limited policy issues arise. As set out in the draft Withdrawal

[1] https://www.gov.uk/government/publications/joint-report-on-progress-during-phase-1-of-negotiations-under-article-50-teu-on-the-uks-orderly-withdrawal-from-the-eu

Agreement, EU budget rules will continue to apply to the UK after 2020 in respect of participation up to the end of 2020, and changes to regulations insofar as they affect the previous budget period will also apply to the UK. These changes are not substantive as they are limited to minor or presentational changes, for example around the control and supervision of relevant reporting requirements.

69. However, also under the draft Withdrawal Agreement, changes to the Own Resources Decision or MFF Regulation which are adopted on or after the date of entry into force of the draft Withdrawal Agreement, shall not apply to the UK in so far as those amendments have an impact on the UK's financial obligations under the financial settlement. Thus, the UK's settlement with the EU will remain substantively unaffected by any changes to future regulation.

**CONSULTATION**

70. Not applicable

**IMPACT ASSESSMENT**

71. Not applicable

**FINANCIAL IMPLICATIONS**

72. There are no direct financial implications for the UK from these proposals. As set out above, the UK would make an ongoing contribution to cover our fair share of the costs involved in any participation in future programmes and policies and the exact terms would be subject to negotiation.

**TIMETABLE**

73. The Working Parties on the Multiannual Financial Framework and Own Resources began working through the high-level proposals in mid-May and discussions are expected to continue on an ongoing basis.

74. Since the last week of May, the Commission has been publishing detailed sectoral regulations for future EU programmes in regular instalments. It is expected that these regulations will be discussed in sectoral working groups.

75. The Commission is pushing for an overall agreement on the next MFF by May 2019, but this is uncertain.

Elizabeth Truss

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