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The Brexit Adjustment Reserve - State of implementation and the way forward

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I. Introduction

Article 17(1) of the Brexit Adjustment Reserve (hereafter BAR) Regulation requires the Commission to inform the European Parliament and the Council by June 2024 about the state of play of the implementation of the BAR, based on available information.

Available information at this stage is limited as implementation is still ongoing and no binding rules exist for Member States to report earlier than 30 September 2024, by when Member States will have to submit their applications including the implementation reports and other documents. Output indicators to measure performance will also become available through the reports of Member States. As a consequence, the actual implementation and achievements stemming from the BAR can only be examined on the basis of information provided by 30 September 2024.

Hence, this Staff Working Document builds on the preliminary information made available by the Member States on a voluntary basis, on the information shared by the Member States with the Commission staff at technical level as well as on public information from the press.

II. Background

As part of the package on the next multiannual financial framework (MFF) 2021-2027, the EU politically agreed in July 2020 to establish a Brexit Adjustment Reserve (BAR) with an allocation of EUR 5.5 billion (in current prices). The BAR Regulation came into force in October 2021[1]. The BAR is a **temporary, targeted instrument**, aiming to provide **swift support to Member States** to alleviate the challenges posed by Brexit. Support from the BAR can be used for **national measures** specifically taken between **January 2020 and December 2023**.

The BAR is based on Article 175 of the Treaty on the Functioning of the European Union (TFEU) and aims to mitigate the negative impact of Brexit on economic, social and territorial cohesion in the European Union. The BAR reflects EU solidarity and its functioning was inspired by the EU Solidarity Fund (EUSF). The BAR has a regulation on its own and is not subject to the Common Provisions Regulation (CPR)[2]. Its overall architecture and functioning is different from cohesion funding reflecting the **unprecedented nature of the event** (a Member State leaving the EU) and the **unforeseeable consequences for Member States** (exposure of Member States and their regions, economic sectors and actors to the United Kingdom differ). This is also why the BAR Regulation could in many aspects not be as specific

[1] Regulation (EU) 2021/1755 of the European Parliament and of the Council of 6 October 2021 establishing the Brexit Adjustment Reserve (OJ L 357, 8.10.2021, p. 1).

[2] Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

and prescriptive as for other cohesion funding (European Regional Development Fund, European Social Fund, Cohesion Fund, Just Transition Fund).

The BAR is implemented through **shared management**. To minimise the administrative burden, there are **neither programming nor national co-financing requirements**. It is characterised by a two stage process:

- Pre-financing for 2021, 2022 and 2023 (80%) subject to Member States submitting a complete notification;
- Final payment (20%) in 2025 against the assessment of sufficient eligible expenditure.

The EU contribution takes the form of **reimbursing eligible costs incurred and paid by public authorities in Member States**, including payments to public or private entities, for measures carried out and for the benefit of the Member State concerned. The Commission will only assess and determine **eligibility** for BAR funds once Member States have applied for a **financial contribution** from the reserve by **30 September 2024** (see Annex I for overall timeline).

III. Political and legal challenges and developments

a. Delayed notifications

Specific features of the BAR were: (i) to provide Member States with an exceptionally large **pre-financing**, and (ii) to require little **administrative burden**.

The notification was a pre-condition for the Commission to set out the breakdown of the resources to be paid as pre-financing and included **three basic elements**: identification of the designated body or bodies managing the BAR, identification of the body to which the pre-financing shall be paid, and confirmation that the management and control systems drawn up for the BAR, by 10 December 2021.

Only two Member States (Italy, Ireland) provided a timely notification whereas the last Member State (Finland) did so only at the end of the reference period, i.e. end December 2023. This delay was due to several reasons, in particular constitutional set-ups in several Member States (such as approval of parliaments), which delayed a timely notification but also because of the need for the Member States to implement the other crisis and recovery instruments under the MFF 2014-2020 as well as 2021-2027 (such as the Recovery and Resilience Facility (RRF)). It is worth mentioning that the **BAR Regulation does not provide for any form of penalty in case of delayed notifications**.

The delay of the notifications had an impact on the Implementing Acts setting out the breakdown, per Member State, of the amounts to be paid as pre-financing: instead of bundling all pre-financings to Member States in one Implementing Decision (encompassing all 27 Member States), the Commission had to undertake incremental steps to adopt several acts (7 in total) resulting accordingly in an uneven disbursement of pre-financing tranches for 2021, 2022 and 2023.

b. Hard versus soft Brexit

Apart from the fisheries sector where the impact of Brexit was felt immediately, it has become increasingly clear that **the impact of Brexit on Member States has been rather incremental** than being of a cliff-edge nature. This is due to several reasons such as the repeated postponement of announced trade measures by the United Kingdom and the impact of multiple other crises, notably the COVID-19 pandemic, the Russian aggression against Ukraine and the ensuing energy crisis. This has made it more difficult for Member States to define measures for areas with a clear and noticeable impact. This and other capacity-related reasons (such as negotiations on Recovery and Resilience Plans (RRPs) and cohesion policy programmes, as well as challenges to comply with the state aid framework) have delayed the implementation of the BAR. As a consequence, several Member States have been struggling with delays in implementation and were advocating for an **extension of the deadline**.

c. Voluntary transfers to REPowerEU

In view of implementation delays and other pressing crises, the possibility of **transfers from the BAR to the REPowerEU**[3] plan was introduced by the EU co-legislators in a Regulation amending *inter alia* the Regulation on the Recovery and Resilience Facility[4] and the BAR Regulation. Member States were to notify the Commission by 1 March 2023 of any intention to transfer the BAR funds (part or all of the provisional allocation) to the REPowerEU chapter of their Recovery and Resilience. This possibility enabled Member States with implementation delays to **secure the funds in a related instrument**. A total of 23 out of 27 Member States submitted a reasoned request for transfer from the BAR to REPowerEU (out of which 10 Member States called for a full transfer) (see Annex II). The total amount of transfer requests reached EUR 2.1 billion (corresponding to 38% of the total financial envelope of some EUR 5.5 billion)

d. Redeployment exercise in the scope of MFF mid-term revision

The remaining BAR allocation, after the transfers to REPowerEU, stands at EUR 3.4 billion, out of which **EUR 0.6 billion** are still **to be paid in 2025** against documentation of sufficient eligible expenditure. According to an amendment to the MFF Regulation[5] following the framework's mid-term review, however, the maximum resources of the BAR have been decreased by this amount. In line with the underlying political decision in the European Council, the 2025 residual amount should not be disbursed under the BAR but be redeployed for other purposes. The political leaders decided not to touch the amounts already paid as pre-financing or the amount of transfers (already made or still forthcoming) from the BAR to the REPowerEU chapters of the revised RRPs (see above).

To implement the reduction of the BAR maximum resources in a manner agreed by political leaders, it will be necessary to decrease the allocations for 12 Member States that have either not transferred any amounts to REPowerEU or transferred smaller amounts than the remaining 2025 tranche. To do so, the BAR Regulation will need to be amended by the legislators. On the basis of that legislative amendment, the Commission will have to amend once more the implementing act setting out the provisional amounts allocated to each Member State from the

[3] Regulation (EU) 2023/435 of the European Parliament and of the Council of 27 February 2023 amending Regulation (EU) 2021/241 as regards REPowerEU chapters in recovery and resilience plans and amending Regulations (EU) No 1303/2013, (EU) 2021/1060 and (EU) 2021/1755, and Directive 2003/87/EC (OJ L 63, 28.2.2023, p. 1).

[4] Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

[5] Council Regulation (EU, Euratom) 2024/765 of 29 February 2024 amending Regulation (EU, Euratom) 2020/2093 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L, 2024/765, 29.2.2024).

resources of the BAR and the related minimum amount of support to local and regional coastal communities, as well as the implementing decisions constituting financing decisions allocating the resources to the Member States.

IV. The state of implementation

Available information on implementation is neither complete nor final due to the following main reasons:

- First, the implementation process may evolve until the submission of the applications, as the Regulation does not require eligible measures **to be carried out** by 31 December 2023, i.e. by the end of the reference period, and this interpretation has been consistently communicated to Member States. An explanatory note on the eligibility of expenditure stemming from Article 5(2) of the BAR Regulation was published on the BAR website of the Commission.
- Second, the Commission only draws initial conclusions at this stage based on the information provided by Member States on a voluntary basis (see Annex III).

Available information suggests that most Member States called for setting up measures to ensure the functioning of:

- border, customs, sanitary and phytosanitary, security and fisheries controls, as well as the collection of indirect taxation, including additional personnel and their training, and infrastructure (14 Member States);
- support to private and public businesses, in particular SMEs (including advisory support) active on the export sectors and trade promotion (some also considered the tourism sector) (11 Member States);
- communication, information and awareness-raising of citizens and businesses about changes to their rights and obligations stemming from the withdrawal of the United Kingdom from the Union (9 Member States); as well as
- fisheries sector and coastal communities (8 Member States).

In line with recital (23) of the BAR Regulation, the Commission has been and continues to be **in a dialogue with Member State authorities** to assist them in the preparation of their potential measures.

Moreover, the Commission has been providing feedback to Member States in several other ways, including organising workshops addressing the most frequent questions, by setting up a specific website and continuously enriching its content with dedicated notes (notably on the direct link, eligibility of expenditure and Q&A on audit matters).

V. Conclusions and the way forward

The Brexit Adjustment Reserve was conceived and designed at a moment of **great uncertainty about the scale, speed and gravity of the impact of Brexit on Member States**. With the benefit of hindsight, several findings should be noted.

1. Even though Brexit formally took effect more than four years ago, **the economic and political consequences are still unfolding** beyond the reference period of the BAR.
2. Anecdotal information suggests that despite its large flexibility, numerous Member States have been struggling with **setting up national measures with a clear direct link to Brexit** endangering the full use of available funds. The innovative and simplified design of the BAR does not seem to have sufficiently facilitated establishing appropriate national measures.
3. New challenges ensuing from multiple crises, geopolitical turbulences and uncertainty asked for immediate action by Member States and further hampered a smooth BAR implementation.

The implementation delays were manifested by the high demand for transfers by Member States from the BAR to REPowerEU.

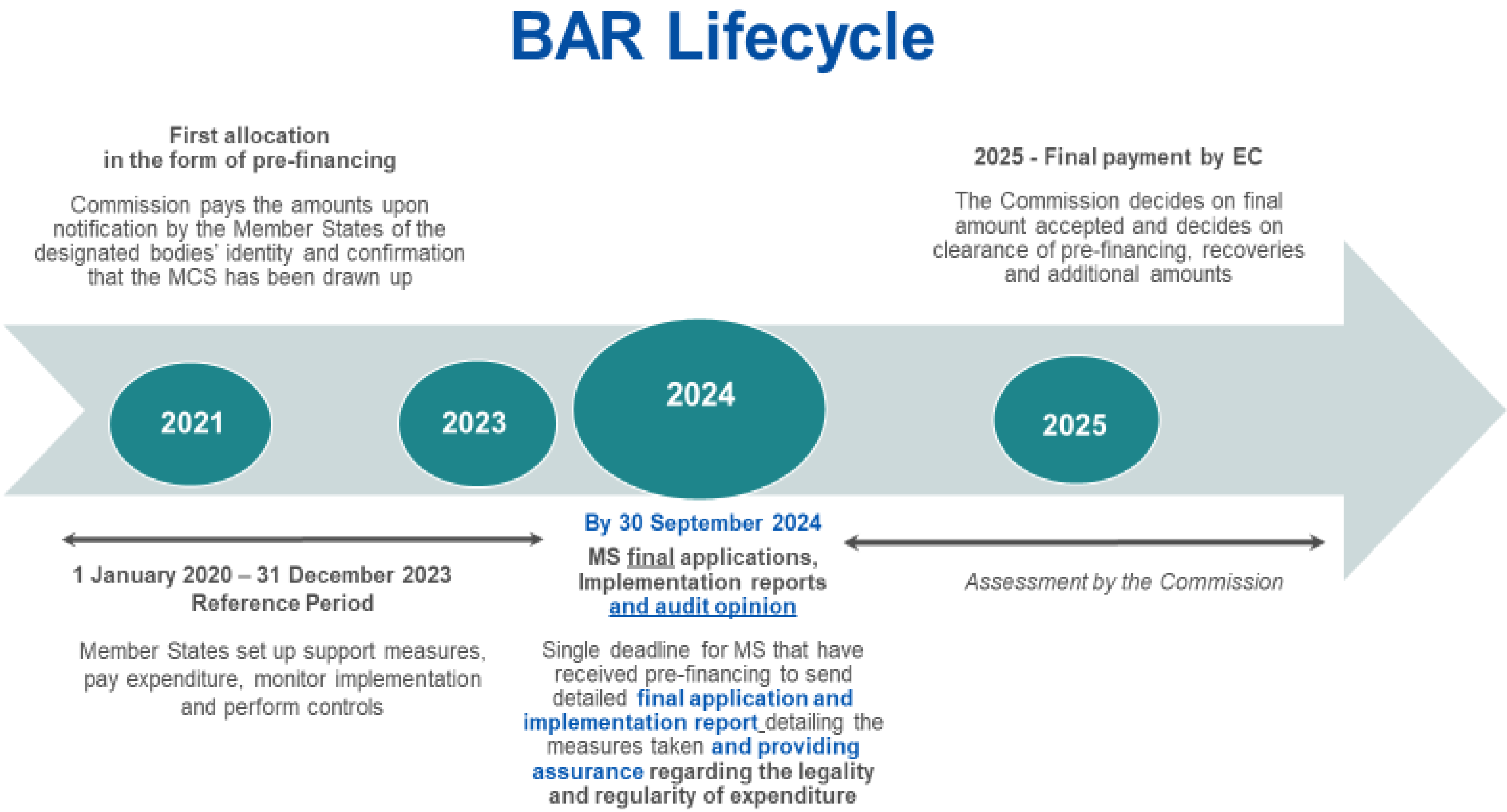
In line with the European Council Conclusions of 1 February 2024 concerning the mid-term revision of the MFF and with the revised MFF Regulation, the total funds deployed under the BAR will be further reduced: the remaining 2025 funds of the BAR envelope will be redeployed to other purposes.

The transfers to the RRF as well as the redeployment following the MFF mid-term review will reduce the total funds deployed under the BAR to a maximum of EUR 2.8 billion.

Next steps stipulated by the BAR Regulation:

- **By 30 September 2024** each Member State shall submit an application to the Commission for a financial contribution from the BAR;
- **In 2025** the Commission shall assess the application and clear the pre-financing and pay any amount due to Member States (the first- round disbursement)
- **In the course of 2025 or 2026** the Commission shall set out the additional amounts, if available, due to Member States (the second-round disbursement)
- **By 30 June 2027** the Commission shall carry out an evaluation to examine the effectiveness, efficiency, relevance, coherence and Union added value of the BAR;
- **By 30 June 2028** the Commission shall submit to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions a report on the implementation of the BAR.

Annex I


BAR Lifecycle
First allocation
in the form of pre-financing
Commission pays the amounts upon notification by the Member States of the designated bodies' identity and confirmation that the MCS has been drawn up
2025 - Final payment by EC
The Commission decides on final amount accepted and decides on clearance of pre-financing, recoveries and additional amounts
2021
2023
2024
2025
By 30 September 2024
MS final applications, Implementation reports and audit opinion
1 January 2020 – 31 December 2023
Reference Period
Member States set up support measures, pay expenditure, monitor implementation and perform controls
Single deadline for MS that have received pre-financing to send detailed final application and implementation report detailing the measures taken and providing assurance regarding the legality and regularity of expenditure
Assessment by the Commission

Annex II

BAR ALLOCATION per MEMBER STATE in current prices (in EUR million)

Member State	BAR INITIAL ALLOCATION	TRANFERS TO REPOWEREU	Total Provisional allocation (after transfer)	Pre-financing already paid	Remaining BAR allocation for 2025 (before redeployment)
BE - Belgium	386.6	228,.9	157.7	157,.7	-
BG - Bulgaria	15.4	6	9.4	8.4	1
DK - Denmark	275	66	209	165.1	43.9
DE - Germany	646.6	219.7	426.9	354.2	72.6
IE - Ireland	1 165.2	150	1 015.2	802	213.2
EL - Greece	38.6	25.6	13	13	-
ES - Spain	272.4	58	214.4	169.4	45
FR - France	735.6	504	231.6	231.6	-
IT - Italy	146.8	-	146.8	116	30.8
LT - Lithuania	12.2	4.7	7.5	6.7	0.8
HU - Hungary	57.2	-	57.2	45.2	12
MT - Malta	44.3	40	4.3	4.3	-
NL - Netherlands	886.3	280	606.3	485.5	120.8
AT - Austria	27.7	-	27.7	21.9	5.8
PL - Poland	173.6	-	173.6	137.2	36.5
FI - Finland	23.2	14.2	9	7.1	1,.9
SE - Sweden	137.4	66.0	71.4	71.4	-
RO - Romania	43.2	43.2	-	-	-
SI - Slovenia	5.3	5.3	-	-	-
SK - Slovakia	36.3	36.3	-	-	-
CZ - Czechia	54.9	54.9	-	-	-
EE - Estonia	6.6	6.6	-	-	-
HR - Croatia	7.2	7.2	-	-	-
CY - Cyprus	52.1	52.1	-	-	-
LV - Latvia	10.9	10.9	-	-	-
LU - Luxembourg	128.5	128.5	-	-	-
PT - Portugal	81.4	81.4	-	-	-
EU27 total	5 470.4	2 089.4	3 381	2 789.6	584.3

*****green – pool of 12 MS impacted for the 2025 tranche **light grey – 5 MS not impacted by the 2025 tranche [BE, EL, FR, MT and SWE] ***yellow – 10 MS not concerned by redeployment due to FULL transfer to REPowerEU

ANNEX III

OVERVIEW OF MEASURES UNDERTAKEN per MEMBER STATE
(informal reporting by Member States)

Measure	BE	BG	DK	DE	IE	EL	ES	FR	IT	LT	HU	MT	NL	AT	PL	FI	SE	Cumulative MS
Measures to support private and public businesses, in particular SMEs, the self-employed, local communities and organisations adversely affected by the withdrawal of the United Kingdom from the Union	**X**		**X**	**X**	**X**		**X**	**X**	**X**		**X**		**X**		**X**		**X**	**11**
Measures to support the economic sectors most adversely affected by the withdrawal of the United Kingdom from the Union	**X**		**X**	**X**	**X**		**X**			**X**								**7**
Measures to support businesses, regional and local communities and organisations, including small-scale coastal fisheries, dependent on fishing activities in United Kingdom waters, in waters of special status territories or in waters covered by fisheries agreements with coastal states where fishing opportunities for Union fleets have been reduced as a result of the United Kingdom's withdrawal from the Union	**X**		**X**	**X**	**X**			**X**					**X**		**X**		**X**	**8**
Measures to support job creation and protection, including green jobs, short-time work schemes, re-skilling and training in sectors most adversely affected by the withdrawal of the United Kingdom from the Union	**X**			**X**	**X**													**3**
Measures to ensure the functioning of border, and security controls, including	**X**	**X**		**X**	**X**	**X**	**X**	**X**	**X**	**X**		**X**	**X**	**X**	**X**		**X**	**14**

Measure	BE	BG	DK	DE	IE	EL	ES	FR	IT	LT	HU	MT	NL	AT	PL	FI	SE	Cumulative MS
additional personnel and their training, and infrastructure																		
Measures to ensure the functioning of customs and collection of indirect taxation, including additional personnel and their training, and infrastructure	**X**	**X**		**X**	**X**	**X**	**X**	**X**	**X**	**X**		**X**	**X**	**X**	**X**		**X**	**14**
Measures to ensure the functioning of sanitary and phytosanitary and fisheries controls, including additional personnel and their training, and infrastructure	**X**	**X**		**X**	**X**	**X**	**X**	**X**	**X**	**X**		**X**	**X**	**X**	**X**		**X**	**14**
Measures to facilitate regimes for certification and authorisation of products, to assist in meeting establishment requirements, to facilitate labelling and marking, for example for safety, health, environmental standards, as well as to assist in mutual recognition	**X**		**X**	**X**	**X**				**X**			**X**					**X**	**7**
Measures for communication, information and awareness-raising of citizens and businesses about changes to their rights and obligations stemming from the withdrawal of the United Kingdom from the Union	**X**	**X**	**X**	**X**	**X**				**X**			**X**	**X**				**X**	**9**
Measures aimed at the reintegration of Union citizens as well as persons having the right to reside on the territory of the Union who left the United Kingdom, as a result of the withdrawal of the United Kingdom from the Union	**X**																	**1**
Other (please specify)																		