Technical note
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CPMR analysis on the Brexit Adjustment Reserve

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In a nutshell

The note provides a first assessment of the proposal on the Brexit Adjustment Reserve from the perspective of regional authorities. The reserve appears to have a tangible territorial focus and a shared governance. However, the proposal does not set out clear guarantees for the involvement of regional authorities. In addition, national governments would enjoy discretion in the distribution of funds due to the lack of a territorial earmarking. The short timeframe of the reserve raises also questions considering the long-term effects of Brexit.

The European Council agreement in July was a key step in the negotiations and set the ground for the current discussions between the Council and the European Parliament in order to reach a deal so that the deployment of Funds can start in the first half of 2021.

The CPMR was the first organisation to take a position on the Brexit Adjustment Reserve. It adopted a declaration on 21 December 2020 together with its North Sea Commission and Atlantic Arc Commission to ask the BAR to be based on the following:

- regional governments at the heart of the governance
- allocation key based on regional data
- clear guarantees to avoid a territorially unbalanced distribution of funds and ensure they are focused on the most impacted areas
- a quick deployment of the funds

1. Introduction

In July 2020, the European Council agreed on the creation of a Brexit Adjustment Reserve "to counter the unforseen and adverse consequences in Member States and sectors that are worst affected". Under the 2021-2027 MFF, the reserve was allocated EUR 5 billion. The Commission was mandated to prepare a legislative proposal by Autumn 2020. The legal text was eventually put forward around Christmas right after the post-Brexit EU-UK trade was sealed.

The Brexit Adjustment Reserve will join the family of the special and flexibility instruments that can be mobilised by the EU to respond to unforeseen events. The design and delivery mode of the reserve draws on both the European Union Solidarity Fund and the cohesion policy funds.

The instrument will compensate additional expenditures incurred by Member States for measures directly linked to the withdrawal of the UK, for instance to: aid economic sectors, businesses and local communities (including those dependent on fishing activities in the UK waters); provide support to employment schemes; ensure the functioning of border, customs, sanitary and phytosanitary and security controls; information and awareness raising for citizens and businesses.

The CPMR has also continuously defended the development of a Brexit Reserve. The proposal was first raised in a declaration on Brexit adopted in Cardiff during a CPMR Conference in October 2017. In March 2019, the CPMR invited the French Minister of European and Foreign Affairs, Jean-Yves Le Drian, to its Political Bureau where he supported this proposal. In May and June 2020, the Atlantic Arc Commission reiterated its request for a Brexit Reserve to Commissioner Ferreira.

2. Territorial dimension and scope

Overall, the Brexit Adjustment Reserves appears to have been designed with a concrete territorial focus. The legislative proposal makes clear that the instrument is established under the cohesion policy umbrella. The legal basis is 175.3 TFEU whereby the EU can set up additional initiatives outside the existing cohesion funds with the same purpose. Accordingly, article 3 stipulates that the main objective of the reserve is to mitigate the adverse consequences of Brexit on the economic, social and – more importantly – territorial cohesion.

One crucial element is the requirement for Member States to focus the funding on the most affected "regions and local communities" (art. 5). In addition, the measures supported by the reserve shall be designed taking into due account the varied impact of Brexit at territorial level (art. 5). This implies that the interventions ought to be tailor made and placed based.

The targeted areas must be specified, along with a description, in the application for funding and the implementation report (art. 10), which means the Commission will assess the choice. The spectrum of measures eligible for funding is not strictly defined reflecting the diversity of needs to address across Member States and regions. From a regional standpoint, these provisions are key safeguards to avoid a spatially-blind use of the funds or dispersion across too many areas.

However, the proposal does not set any territorial earmarking, i.e. at NUTS2 level. National governments will still enjoy a degree of discretion in determining the domestic distribution of the funds. This could result in a sub-optimal allocation of money across the regions posing a possible challenge to the principle whereby the funding should go where it is most needed.

Recommendations from CPMR General Secretariat

A flexible territorial earmarking, in the form of minimum targets for the most affected areas, could be envisaged as long as it relies on objective criteria.

The implementation report and the application for financial contribution should feature a dedicated section where Member States provide a justification as to why the targeted areas have been picked and what is the distribution of funding among them.

3. Governance

A welcome aspect of the proposal is that the reserve will be implemented under shared management. On paper, the proposed governance may contemplate the possibility for regional authorities to manage the fund directly, where Member States so decide. According to the proposal, Member States shall designate and notify to the Commission the body (or bodies?) responsible for managing the financial contribution as well as a separate independent audit body (article 13).

The proposal hints at the possibility to designate “regional bodies” for this role (see Annex III). Moreover, for simplification purposes the management of the funding can be entrusted by Member States to existing bodies, specifically managing authorities of cohesion policy programmes. This option appears to be encouraged by the Commission.

Having said that, the text is ambiguous as to whether a Member States can appoint more than one management body. If this is not the case, it will be difficult, if not impossible, to avoid a centralized governance. This aspect should be clarified during the legislative process.

In addition, the proposal sets out no obligations for Member States to consult the local and regional authorities of the targeted areas in order to identify the measures to be supported or costs to be covered. The involvement of these entities in designing the interventions is essential to best target the use of the funding, especially where regions are not designated as managing bodies.

Recommendations from CPMR General Secretariat

It would be important to clarify in the legal text that more than one body can be charged with managing the funds. Specific procedures and conditions for this should be spelled out in the proposal.

The introduction of a provision requiring Member States to involve local and regional authorities from the affected areas in identifying the measures to be supported by the reserve is consistent with its objectives and the very principles cohesion policy.

4. Timeframe

The Brexit Adjustment Reserve will be made available via two rounds of allocations in 2021 (€ 4Bn in form of pre-financing) and in 2024 (€ 1bn). There will be only a single application for financial contributions which Member States have to submit by 30 September 2023. This process is positive as it ensures an equal treatment of applications – i.e. no competition for funding – and the delivery of the bulk of the funding upfront. Nonetheless, it leaves the remaining years of the programming period without any financial aid.

In fact, the eligibility period of measures covered by the BAR will run from 1 July 2020 to 31 December 2022 only. There is abundant evidence about the long-term effects of Brexit on several regions and sectors. This holds particularly true for the fisheries sector also looking at the further strain resulting from the end of the transition period agreed on quota shares. At the same time, various disruptions may continue beyond 2022.

Recommendations from CPMR General Secretariat

A discussion is needed to assess whether the BAR should cover a longer period of time, if not the entire programming period. A longer eligibility period (beyond end 2022) might imply a second round of application claims from Member States reporting more long-term costs, i.e. after 2022, in particular those affected by the end of the fisheries transition period.

Unused amounts from the first round (resulting from both clearance of pre-financing and non assigned resources) could be redirected towards these Member States as these amounts could be carried over until 2025.

If the reserve is exhausted other possibilities could be explored including tapping into unused funds from other instruments.

5. Coordination with other funds

The proposal does not rule out the possibility for other EU programmes to contribute to the measures supported by the BAR as long as there is no double financing. The text stresses that the reserve will ensure synergies with other EU funding instruments. The use of other EU funds shall be spelled out in the application for financial contribution.

On surface this is a positive aspect as it opens the possibility to channel more funding towards Brexit mitigation interventions. At the same time, it could lead to EU resources, especially from ESIF funds, being diverted from their original objectives, eating up into regional allocations. This could represent a particular risk for funds with a relatively modest budget, such as the EMFF.

Recommendations from CPMR General Secretariat

The legal text could spell out specific conditions under which the contribution of other EU funds to the BAR is allowed. For instance, the decision to draw on cohesion allocations should be approved by the regional authorities of the areas and/or programmes concerned.

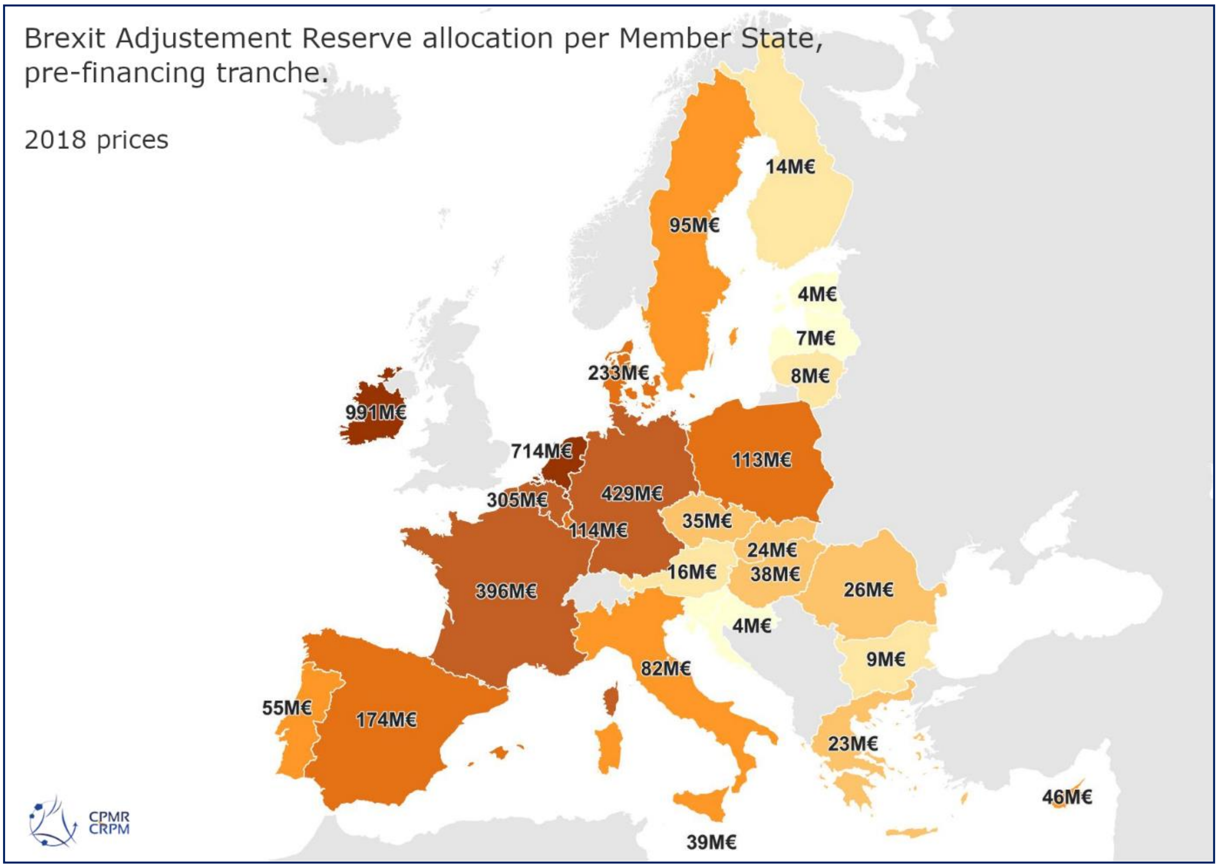
6. Allocation key

The allocation methodology for disbursing the pre-financing is based on national data. This seems in contrast with the very territorial focus of the proposal and its establishment under the remit of cohesion policy. It departs from the methodology used for determining the allocations of cohesion policy funds, which is based on NUTS2 data (with the exception of the cohesion fund). An allocation key based on NUTS2 would have provided stronger guarantees with respect to the domestic allocation of the funds. The two factors (trade exposure and impact on the fishery sector) reflect the main expected impacts of Brexit.

The rationale behind making all Member States eligible for the pre-financing is to ensure fair access to the fund. Yet, it could have the unintended consequence of spreading the reserve too thinly at the expense of the areas that need it the most (especially those more exposed to the short term disruptions of Brexit). A number of Member States will receive sizeable amounts though the impact of Brexit on their national economies is projected to be negligible.

The disbursement of the Brexit Adjustment Reserve is based on two phases: a prefinancing mechanism of 4 billion euros (1st phase), whilst the remaining 1 billion euros will be disbursed in 2024 on a case-by-case basis covering additional requests for compensations (if any) in the same vein as the European Solidarity Fund, with certain caps applying (2nd phase)

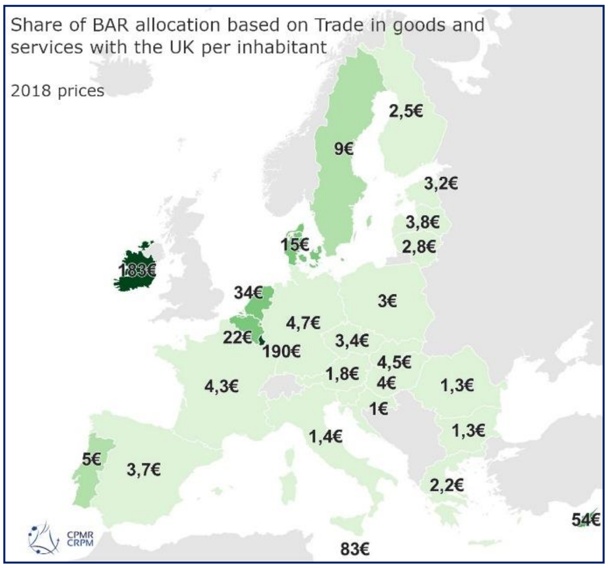
The CPMR General Secretariat has broken down the mechanics of the allocation methodology for the pre-financing of the 4 billion euros (1st phase) per Member State below. The following map represents the amount of funding foreseen per Member State.

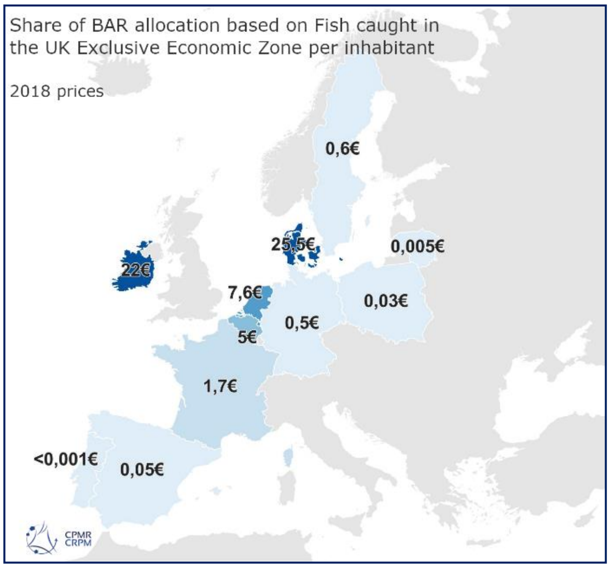


The pre-financing of the Brexit Adjustement Reserve is determined by a methodology including two factors:

a) The volume of fish caught in the Exclusive Economic Zone of the UK (600 million euros)
b) The volume of trade between individual Member States and the UK. The first one is used to allocate 600 million euros and the second one 3 400 million euros (2018 prices).

The following maps indicate the amount of allocation per inhabitant and member state for both of these factors:





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The Conference of Peripheral Maritime Regions (CPMR) represents more than 150 regional authorities from 24 countries across Europe and beyond. Organised in Geographical Commissions, the CPMR works to ensure that a balanced territorial development is at the heart of the European Union and its policies.

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