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**Subject:** Working paper "Essential Principles on **Financial Settlement**"

**Origin:** European Commission, Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 TEU

**Objective:** For discussion at the Council Working party (Art. 50) of 1 June 2017

**Remarks:** The attached working paper on "Essential Principles on **Financial Settlement**" contains the main principles of the EU position in this regard, to be presented to the UK in the context of negotiations under Art. 50

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## Essential Principles on Financial Settlement

The Union and the United Kingdom should both respect in full the financial obligations resulting from the whole period of the United Kingdom membership in the Union.

### **I. General principles**

1. There should be a single financial settlement related to:
  - The Union budget;
  - The termination of the membership of the United Kingdom of all bodies or institutions established by the Treaties;
  - The participation of the United Kingdom in specific funds and facilities related to the Union policies.

Annex 1 lists, on the basis of information currently available, the bodies and funds to be included in the financial settlement. This list should be updated at the date of withdrawal.

2. This single financial settlement should be based on the principle that the United Kingdom must honour its share of the financing of all the obligations undertaken while it was a member of the Union. The United Kingdom obligations should be fixed as a percentage of the EU obligations calculated at the date of withdrawal in accordance with a methodology to be agreed in the first phase of the negotiations.
3. On this basis, the United Kingdom should continue to benefit from all programmes as before the withdrawal until their closure under the condition that it respects the applicable Union legal rules.
4. Accounts shall be established in euro and all payments from the United Kingdom to the Union should be made in euro.

### **II. Methodology for calculating the United Kingdom obligation vis-à-vis the Union budget**

Through its approval of the successive Multi-annual Financial Frameworks (MFFs) and the Own Resource Decision (ORD<sup>1</sup>), the United Kingdom committed to fund a share of the Union obligations defined by the ORD rules in all its dimensions. In particular, through the adoption of the basic acts (legal base)<sup>2</sup>, each programme has been allocated a reference amount to be spent according to a financial programming over the period 2014-2020.

#### **1. Calculation of the Union obligations**

The Union obligations stem from:

- (1) The Reste à Liquider ("RAL") from the successive Multi-annual Financial Frameworks during which the United Kingdom was a member of the Union;

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<sup>1</sup> Council Decision (2014/335/EU, Euratom) of 26 May 2014 on the system of own resources of the European Union, OJ L 168, 7.6.2014, p. 105–111.

<sup>2</sup> Annex 2 provides the list of current legal bases concerned. This list should be updated at the date of withdrawal.

- (2) The financial programming for the period between the date of withdrawal of the United Kingdom and the end of the MFF 2014-2020;
- (3) The liabilities as recorded in the consolidated accounts of the Union which are not balanced by corresponding assets, i.e.:
  - a. Pensions and other employee benefits,
  - b. Provisions<sup>3</sup>,
  - c. Financial liabilities not related to borrowings,
  - d. Payables and accrued charges<sup>4</sup> other than RAL.
- (4) The contingent liabilities disclosed in the consolidated annual accounts;
- (5) The specific costs related to the withdrawal process.<sup>5</sup>

*Sources for quantifying the obligations at the date of withdrawal:*

The amounts for items (1), (3) and (4) should be extracted from the EU consolidated accounts established at the time of withdrawal and audited by the Court of Auditors.

The amounts for item (2) should be extracted from the latest updated financial programming.

The overall obligations as established at the date of withdrawal (= sum of items (1) to (5)) may be subject to limited technical adjustments linked to the actual implementation of commitments.

## 2. Share of the United Kingdom

Should the financial settlement include all the obligations mentioned above, the United Kingdom share of the Union obligations should be established as the ratio (in percentage) between all own resources<sup>6</sup> transferred by the United Kingdom to the EU budget and the total own resources transferred by the Member States (EU28) over 2014-2018. These amounts include all specific adjustments of national contributions as defined by the ORD.

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<sup>3</sup> E.g.: provisions for the decommissioning of the Joint Research Centre nuclear sites.

<sup>4</sup> E.g.: own resources payables.

<sup>5</sup> This should include, for example, the cost related to the termination of contracts for housing agencies that have to move as a consequence of the withdrawal, the costs related to the move itself and the costs related to installation in the new location.

<sup>6</sup> The own resources are constituted of traditional own resources, VAT-based and GNI-based contributions as defined in the Council Decision (2014/335/EU, Euratom) of 26 May 2014 on the system of own resources of the European Union, OJ L 168, 7.6.2014, p. 105–111.

### **III. European Investment Bank (EIB)**

Through its subscribed capital (callable and paid-in), the United Kingdom committed to guarantee the financing made by the EIB while it was a Member State. Following the withdrawal, the United Kingdom should cease being a member of the EIB. The United Kingdom liability resulting from the guarantee for the financing made by the EIB while the United Kingdom was a Member State should be maintained and decreased in line with the amortisation of the EIB portfolio outstanding at the time of United Kingdom withdrawal.

### **IV. European Central Bank (ECB)**

As part of the financial settlement, the paid-in capital of the United Kingdom in the ECB should be reimbursed to the Bank of England (BoE) as prescribed by the schedule of payment referred to in part VII. Modalities and other practical arrangements should be established by the ECB Governing Council following the rules of the Treaties and its Protocols.

### **V. European Development Fund (EDF):**

The United Kingdom should remain liable in full for the obligations of the successive European Development Funds and should therefore continue to contribute to the payments necessary to honour all commitments related to all unclosed Funds (8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> EDF) in accordance with the specific financing keys of each EDF and their specific financing rules.

### **VI. EU Trust funds (TF) and the Facility for Refugees in Turkey (FRT):**

The United Kingdom should respect in full its undertaking for funding EU Trust Funds<sup>7</sup> and the Facility for Refugees in Turkey.

### **VII. Other bodies**

Until the end of the academic year 2020-2021, the United Kingdom should continue to contribute to the funding of the teachers it seconded to the European schools in line with the cost sharing agreement related to the secondment of British and Irish teachers.

For the agencies of the Council which are not financed by the General budget of the Union (European Defence Agency, European Union Institute for Security Studies, European Union Satellite Centre), the United Kingdom should assume its share of the financing of all obligations undertaken by these agencies before the withdrawal.

### **VIII. Schedule of payments**

Except for the payments linked to the EDF, the EU Trust Funds and the Facility for Refugees in Turkey, all other United Kingdom's payments related to the financial settlement should follow a schedule of payments that should aim at mitigating the impact of the United Kingdom withdrawal on the budget for the Union and on its Member States. This schedule and practical modalities for these payments should be defined in phase 2 of the negotiations.

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<sup>7</sup> The list of concerned EU Trust Funds is in Annex 1.

For the EDF, the EU Trust Funds and the Facility for Refugees in Turkey, the payments should be made according to the specific rules and schedule applicable to each fund.

## Annex 1 - Lists of bodies or funds included in the financial settlement

<b>A. ENTITIES IN THE CONSOLIDATED ACCOUNTS</b>	
<i>1. Institutions and consultative bodies</i>	
	European Parliament
	European Council European
	European Commission
	European Court of Auditors
	Court of Justice of the European Union
	Council of the European Union
	Economic and Social Committee
	Committee of the Regions
	European Ombudsman
	European Data Protection Supervisor
	European External Action Service
<i>2. EU Agencies</i>	
<i>2.1. Executive Agencies</i>	
	Education, Audiovisual & Culture Executive Agency
	Executive Agency for Small and Medium-sized Enterprises
	Consumers, Health, Agriculture and Food Executive Agency
	Innovation & Networks Executive Agency
	Research Executive Agency
	European Research Council Executive Agency
<i>2.2. Decentralised Agencies</i>	
	European Maritime Safety Agency
	European Food Safety Authority
	European Medicines Agency
	European Railway Agency
	European GNSS Supervisory Authority
	Community Plant Variety Office
	European Chemicals Agency
	European Fisheries Control Agency
	Fusion for Energy (European Joint Undertaking for ITER and the Development of Fusion Energy)
	European Monitoring Centre for Drugs and Drug Addiction
	Eurojust
	European Union Agency for Law Enforcement Training (CEPOL)
	European Institute for Gender Equality
	European Police Office (EUROPOL)
	European Agency for Safety and Health at Work
	European Aviation Safety Agency
	European Centre for Disease Prevention and Control
	European Network and Information Security Agency
	European Environment Agency
	European Union Agency for Fundamental Rights
	European Centre for the Development of Vocational training

		European Insurance and Occupational Pensions Authority
		European Agency for Cooperation of Energy Regulators
		Translation Centre for the Bodies of the European Union
		European Banking Authority
		European Securities and Markets Authority
		European Asylum Support Office
		European Training Foundation
		Office for the Body of European Regulators for Electronic Communication
		European Foundation for the Improvement of Living and Working Conditions
		European Border and Coast Guard Agency (Frontex)
		European Union Intellectual Property Office
		EU-LISA (European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice)
		The Single Resolution Board (SRB)
	<b>3. Other entities</b>	
		European Coal and Steel Community (in liquidation)
		European Institute of Innovation and Technology
<b>B. JOINT VENTURES</b>		
		SESAR Joint Undertaking
		Innovative Medicines Initiative 2 Joint Undertaking
		Fuel Cells and Hydrogen Joint Undertaking
		ECSEL Joint undertaking
		Clean Sky 2 Joint Undertaking
		Bio-based Industries Joint Undertaking
		Shift2Rail
		Galileo Joint Undertaking in liquidation
<b>C. ASSOCIATES FUNDS IN THE ACCOUNTS</b>		
		European Investment Fund
<b>D. FUNDS NOT IN THE CONSOLIDATED ACCOUNTS</b>		
		European Development Fund
		Facility for Refugees in Turkey
<b>E. TRUST FUNDS<sup>8</sup></b>		
		European Union Trust Fund for Central African Republic "Békou EU Trust Fund"
		European Union Regional Trust Fund in response to the Syrian crisis, "the Madad Fund"
		Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa
		Trust Fund for Columbia
<b>F. BODIES NOT IN THE CONSOLIDATED ACCOUNTS</b>		
		European Central Bank
		European Investment Bank
		European Defence Agency
		European Union Institute for Security Studies

<sup>8</sup> The "Madad" and Columbia Trust Funds are included in the EU consolidated accounts

	European Union Satellite Centre
	European Schools



## Annex 2 - List of basic acts

Programmes		Basic act (Legal base)
EFSI	European Fund for Strategic Investments (EFSI)	2015/1017
EGNOS and Galileo	European satellite navigation systems (EGNOS and Galileo)	2013/1285
ITER	International Thermonuclear Experimental Reactor (ITER)	2007/198
Copernicus	European Earth Observation Programme (Copernicus)	2014/377
ND-BG-SK	Nuclear decommissioning assistance programmes in Bulgaria and Slovakia	2013/1368
ND-LT	Nuclear decommissioning assistance programmes in Lithuania	2013/1369
H2020	Horizon 2020	2013/1291, 2013/1290, 2013/743
Euratom	Euratom Research and Training Programme	2013/1314
COSME	Competitiveness of enterprises and small and medium-sized enterprises (COSME)	2013/1287
Erasmus+	Education, Training and Sport (Erasmus+)	2013/1288
EaSI	Employment and Social Innovation (EaSI)	2013/1296
Customs 2020	Action programme for customs in the European Union (Customs 2020)	2013/1294
Fiscalis 2020	Action programme for taxation in the European Union (Fiscalis 2020)	2013/1286
Hercule III	Programme to promote activities in the field of the protection of the European Union's financial interests (Hercule III)	2014/250
Pericles 2020	Exchange, assistance and training programme for the protection of the euro against counterfeiting (Pericles 2020)	2014/331, 2015/768
AFIS	Anti Fraud Information System (AFIS)	1997/515
CEF-Energy	Connecting Europe Facility-Energy	2013/1316
CEF-Transport	Connecting Europe Facility-Transport	2013/1316
CEF-ICT	Connecting Europe Facility-Information and Communications Technology (ICT)	2013/1316
ESP	European statistical programme (ESP)	2013/99
FINSER	Specific activities in the field of financial reporting and auditing	2014/258
ISA	Interoperability Solutions for European Public Administrations, businesses and citizens (ISA)	2015/2240
ICFS	Enhancing consumers involvement in EU policy making in the field of financial services	
WIFI4ALL	Wifi for all	
ERDF	European Regional Development Fund (ERDF)	2013/1303, 2013/1301, 2013/1299
ESF	European Social Fund (ESF)	2013/1303, 2013/1304
CF	Cohesion Fund (CF)	2013/1303, 2013/1300
CEF-CF	Connecting Europe Facility (CEF) – CF contribution	2013/1303, 2013/1316
YEI	Youth Employment initiative (specific top-up allocation)(YEI)	2013/1303, 2013/1304
FEAD	European Aid to the Most Deprived (FEAD)	2013/1303, 2014/223
EAGF	European Agricultural Guarantee Fund (EAGF) — Market related expenditure and direct payments	2013/1308, 2013/1370, 2013/1307
EAFRD	European Agricultural Fund for Rural Development (EAFRD)	2013/1303, 2013/1305, 2013/1306, 2013/1310

EMFF	European Maritime and Fisheries Fund (EMFF)	2013/1303, 2013/1380, 2014/508
SFPAs	Sustainable Fisheries Partnership Agreements (SFPAs)	2013/1380 + protocols
LIFE	Environment and climate action (LIFE)	2013/1293
AMIF	Asylum, Migration and Integration Fund	2014/514, 2014/516, 2015/1523, 2015/1601
ISF	Internal Security Fund	2014/514, 2014/515, 2014/513
SIS	Schengen Information System (SIS)	2012/1272, 2012/1273
VIS	Visa Information System (VIS)	2008/633, 2008/767
EURODAC	Comparison of fingerprints for the effective application of the Dublin Convention (EURODAC)	2013/603, 2013/604
JUSTICE	Justice	2013/1382
RIGHT	Rights, Equality and Citizenship	2013/1381
UCPM3	Union Civil protection Mechanism	2013/1313
E4CITIZEN	Europe for Citizens	2014/390
FOOD	Food and feed	2014/652
HEALTH	Health	2014/282
CONSUMER	Consumer	2014/254
CREA	Creative Europe	2013/1295
IES	Instrument for Emergency Support within the Union (IES)	2016/369
IPA II	Instrument for Pre-accession assistance (IPA II)	2014/231
ENI	European Neighbourhood Instrument (ENI)	2014/232
DCI	Development Cooperation Instrument (DCI)	2014/233
PI	Partnership instrument for cooperation with third countries (PI)	2014/234, 2013/1288
EIDHR	European Instrument for Democracy and Human Rights (EIDHR)	2014/235
IcSP	Instrument contributing to Stability and Peace (IcSP)	2014/230
HUMA	Humanitarian aid (HUMA)	1996/1257
CFSP	Common Foreign and Security Policy (CFSP)	Decisions for each missions
INSC	Instrument for Nuclear Safety Cooperation (INSC)	2014/237
MFA	Macro-financial Assistance (MFA)	Decisions for each assistance
GF	Guarantee Fund for external actions (GF)	2009/480, 2014/466
UCPM4	Union Civil Protection Mechanism	2013/1313
EUAV	EU Aid Volunteers initiative (EUAV)	2014/375, 2014/1244, 2014/1398
EFSD	European Fund for Sustainable Development (EFSD)	
TCC	Instrument of financial support for encouraging the economic development of the Turkish Cypriot community (TCC)	2006/389
GRLD	EU Cooperation with Greenland	2014/137, 2013/755