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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 326 final
Subject:	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

Delegations will find attached document COM(2018) 326 final.

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Brussels, 2.5.2018
COM(2018) 326 final

2018/0131 (NLE)

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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The purpose of this proposal is to lay down, in accordance with Article 322(2) of the Treaty on the Functioning of the European Union, provisions necessary to determine the methods and procedure whereby Member States make the new own resources available to the Commission. These new Own Resources, referred to in Article 2(1)(c), (d) and (e) of the Commission proposal for a Council Decision on the system of Own Resources of the European Union¹, are those based on the Common Consolidated Corporate Tax Base, on the European Union Emissions Trading System and on Plastic packaging waste that is not recycled. This Regulation complements Council Regulation (EU, Euratom) No 609/2014², which will continue to apply to existing Own Resources.

The proposed new Own Resources Decision maintains and reforms the existing three Own Resources: Traditional Own Resources, a modified version of the Value Added Tax-based Own Resource and the Own Resource based on the Gross National Income.

In addition, the Own Resources Decision proposal introduces three new Own Resources, based on the Common Consolidated Corporate Tax Base, on the EU Emissions Trading System and on Plastic packaging waste that is not recycled.

The practical arrangements proposed in this Regulation implement the system set out in the proposed Own Resources Decision, and complement the current system for Own Resources by adapting it to the new Own Resources. In particular, the proposed Regulation deals with the calculation, establishment and making available of the new Own Resources, conservation of supporting documents, administrative cooperation, accounts to be kept for Own Resources, the timing for making them available and for making corrections and adjustments and, where necessary, provisions concerning cash requirements.

In addition, the proposal establishes the calculation of the applicable rate for the Own Resource based on Gross National Income, complementing Article 5 of Regulation (EU, Euratom) No 609/2014. The amount of Gross National Income should be calculated once the amounts of all the other Own Resources and of the financial contributions to supplementary research and technological development programmes and other revenue are known. This would ensure the residual character of the Gross National Income Own Resource, designed to top up the amounts of the EU budget that are not reached by the other Own Resources as well as by the other sources of income to the Union budget.

In terms of their handling in the budgetary cycle, Own Resources fall into two groups. Firstly, some revenue items are updated in line with actual developments at a later stage (compared to the amounts budgeted in the budget adopted at the beginning of the budget year), such as the Own Resources based on Value Added Tax and Gross National Income, which presently fall

¹ COM(2018) 325 final of 2.5.2018.

² Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (OJ L 168, 7.6.2014, p. 39).

into this category. Secondly, some revenue items are not updated, such as customs duties. The new Own Resources proposed would also fall into one of these two groups and will not require a change in procedure. The Own Resources based on the Common Consolidated Corporate Tax Base and on the Plastic packaging waste contribution would be updated in the light of actually reported and verified figures once they become available. On the other hand, the Own Resource based on the auctioning revenue from the European Union Emissions Trading System would not entail any updates or adjustments at a later stage, similarly to customs duties. With the contribution based on Gross National Income remaining the 'balancing item', budgetary equilibrium will be maintained.

The Advisory Committee will be fully involved in the forecast exercise for all Own Resources.

The provisions in this Regulation normally mirror those in Regulation (EU, Euratom) No 609/2014, and references to it are made throughout the text.

In accordance with the fourth paragraph of Article 311 of the treaty on the Functioning of the European Union, the provisions on the making available of Own Resources are complemented by a regulation laying down implementing measures for the Union's Own Resources system. These provisions, not directly related to making Own Resources available, are set out in the proposal for a Council Regulation laying down the implementing measures on the system of Own Resources³, which will repeal and replace current Regulation (EU, Euratom) No 608/2014⁴.

This initiative is part of the broader Own Resources legislative package that the Commission is proposing together with a Multiannual Financial Framework Regulation for 2021-2027⁵. It includes the Own Resources Decision referred to above, a new implementing measures' Regulation for all Own Resources, current and new, and an amendment⁶ to the Regulation for the Value Added Tax based Own Resources⁷. The initiative is not part of the Regulatory Fitness Programme.

The proposed Own Resources Decision includes new Own Resources and its Article 6(3) requires Member States to make the resources provided for in Article 2(1)(a), (b), (c), (d), (e) and (f) available to the Commission, in accordance with regulations adopted under Article 322(2) of the Treaty on the Functioning of the European Union. Regulation (EU, Euratom) No 609/2014 deals with the existing Own Resources referred to in Article 2(1)(a), (b) and (f), of the Decision, and the proposed Regulation deals with the newly created Own Resources referred to in Article 2(1)(c), (d) and (e) of the Decision.

In addition, for the purpose of setting the applicable rate for the residual Own Resource based on Gross National Income, a new Article is proposed, complementing Article 5 of Regulation (EU, Euratom) No 609/2014. Under the proposed Article, the revenue from the Own Resources based on the Common Consolidated Corporate Tax Base, the European Union

³ COM(2018) 327 final of 2.5.2018.

⁴ Council Regulation (EU, Euratom) No 608/2014 of 26 May 2014 laying down implementing measures for the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 29).

⁵ COM(2018) 322 final of 2.5.2018.

⁶ COM(2018) 328 final of 2.5.2018.

⁷ Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9).

Emissions Trading System and Plastic packaging waste is added to the revenue from Traditional Own Resources and the Own Resources based on Value Added Tax, in order to calculate the part of the budget to be covered by the Own Resource based on Gross National Income.

The Commission proposal is explained in more detail below in section 5.

- **Consistency with existing policy provisions in the policy area**

The legal basis for the Own Resources Decision is the third paragraph of Article 311 of the Treaty on the Functioning of the European Union. The fourth paragraph of Article 311 and Article 322(2) of the Treaty are the legal basis for the acts that will lay down the implementing measures for the system of Own Resources and for making those Own Resources available.

This Regulation's legal basis is Article 322(2) of the Treaty on the Functioning of the European Union. It is further referred to in Article 6 of the new Own Resources Decision (Article 8 of Own Resources Decision No 2014/335/EU, Euratom⁸). It complements the current Making Available Regulation (EU, Euratom) No 609/2014 for Traditional Own Resources and the Own Resources based on Value Added Tax and Gross National Income. Finally, it is connected to the Regulation laying down implementing measures for the system of Own Resources (the current Regulation (EU, Euratom) No 608/2014 and the proposed new implementing measures Regulation).

- **Consistency with other Union policies**

Given the nature of Own Resources, their management relies on the correct application of other Union policies:

- traditional Own Resources (mainly customs duties) are linked to the customs union;
- Own Resources based on Value Added Tax and on the Common Consolidated Corporate Tax Base are linked to Single Market and taxation policy;
- Own Resources based on the European Union Emissions Trading System and on Plastic packaging waste are linked to Union policies on the environment and climate action.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This Regulation's legal basis is Article 322(2) of the Treaty on the Functioning of the European Union. It is further referred to in Article 6 of the new Own Resources Decision (Article 8 of Own Resources Decision 2014/335/EU, Euratom).

⁸ Council Decision of 26 May 2014 on the system of own resources of the European Union (2014/335/EU, Euratom) (OJ L 168, 7.6.2014, p. 105).

- **Subsidiarity (for non-exclusive competence)**

By the nature of the Union budget and the Own Resources that make up its revenue, the system of Own Resources and arrangements for making them available need to take a Union-wide perspective and cannot be achieved by the Member States.

- **Proportionality**

This proposal for a new Regulation complements the existing provisions and adapts them to the new Own Resources. The inclusion of new Own Resources in the Own Resources Decision calls for updated legislation that includes provisions on making these new Own Resources available and that updates and improves the existing provisions.

Given that it is in the interests of the Union and its Member States to ensure that the system of Own Resources works well, the methods for making the Own Resources available are designed to allow smooth cooperation between the Union and the Member States.

- **Choice of the instrument**

Article 322(2) of the Treaty on the Functioning of the European Union does not specify the instrument to be used⁹. However, Article 8 of Decision 2014/335/EU, Euratom and Article 6 of the proposed Own Resources Decision require Member States to make the resources available to the Commission ‘in accordance with regulations’ adopted under Article 322(2) of the Treaty on the Functioning of the European Union.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

The explanatory memorandum for the Proposal for a Council Decision on the system of Own Resources of the European Union provides more information on the recent reports and documents analysing the need to reform the Own Resource system.

Therefore, a new Making Available Regulation is necessary since the current Regulation (EU, Euratom) No 609/2014 only refers to Traditional Own Resources and Own Resources based on Value Added Tax and Gross National Income, while the proposed Own Resources Decision introduces new Own Resources for which provisions on making them available are needed.

The proposal follows provisions already in force, since it adapts the system in place under Council Regulation (EU, Euratom) No 609/2014 to the new Own Resources. In addition, it complements and makes reference to the relevant legislation on the new Own Resources. Therefore, the proposal will be a continuation of the system in place, expanding it to the new Own Resources.

This proposal is not linked to the Regulatory Fitness Programme; it is targeted at Member States and not at microenterprises or small and medium-sized enterprises or other

⁹ *‘The Council, acting on a proposal from the Commission and after consulting the European Parliament and the Court of Auditors, shall determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Union’s own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements.’*

stakeholders; it is in principle neutral on sectoral Union competitiveness or international trade. The proposal has no consequences for the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

The budgetary implications of this proposal and of the Own Resources legislative package are detailed in a Legislative Financial Statement attached to this proposal. With the introduction of new Own Resources, the reformed Own Resources system can be implemented at the same level of administrative appropriations and staff resources as the present system.

5. OTHER ELEMENTS

The application of the Own Resources legislation, including the methods and procedure for making available Own Resources, is discussed on a regular basis in the Advisory Committee on Own Resources.

The Commission proposal may be summarised as follows:

Chapter I ‘General Provision’

Article 2 of the proposal, ‘conservation of supporting documents’: provisions replicate those under Article 3 of Regulation (EU, Euratom) No 609/2014, differentiating between provisions for the Own Resource based on the European Union Emissions Trading System (which are similar to those applicable to Traditional Own Resources), and provisions for the Own Resources based on the Common Consolidated Corporate Tax Base and Plastic packaging waste (which are similar to those applicable to the Own Resources based on the Value Added Tax and Gross National Income).

Article 3 of the proposal, ‘administrative cooperation’ mirrors Article 4 of Regulation (EU, Euratom) No 609/2014.

Article 4 of the proposal, ‘effects on the Own Resource based on Gross National Income’, ensures the residual character of the Own Resource based on Gross National Income. It complements Article 5 of Regulation (EU, Euratom) No 609/2014 by stating that the amount of Own Resource based on Gross National Income will be calculated after the revenue stemming from all the other Own Resources, already existing and new, has been added. It also ensures that the gross reductions granted in the new Own Resources Decision are taken into account for the entry into the accounts and the making available of the Own Resource based on Gross National Income.

Chapter II ‘Accounts for Own Resources’

Article 5 of the proposal, ‘entry in the accounts and reporting’ mirrors Article 6 of Regulation (EU, Euratom) No 609/2014, adapting it to the needs of the new Own Resources.

Article 6 of the proposal, ‘accounting corrections for the Own Resources based on the European Union Emissions Trading System’, mirrors Article 7 of Regulation (EU, Euratom) No 609/2014, adapting this Own Resource to what is established there for Traditional Own Resources, since both Own Resources share a similar nature.

Chapter III ‘Calculation of Own Resources’

Articles 7, 8 and 9 cover the calculation methods of the Own Resources based on the Common Consolidated Corporate Tax Base, the European Union Emissions Trading System and Plastic packaging waste. It should be read in connection with Article 1 of the Commission proposal for a Council Regulation laying down implementing measures for the system of Own Resources of the European Union, which sets the applicable call rates.

Chapter IV ‘Making available Own Resources’

Article 10 of the proposal ‘treasury and accounting arrangements’ refers to Article 9 of Regulation (EU, Euratom) No 609/2014.

Articles 11 and 12 cover the making available of the new Own Resources. As explained, the Own Resource based on the European Union Emissions Trading System follows the provisions that are applicable to Traditional Own Resources (see Article 10 of Regulation (EU, Euratom) No 609/2014). The Own Resources based on the Common Consolidated Corporate Tax Base and Plastic packaging waste, however, follow the provisions applicable to the Own Resources based on Value Added Tax and Gross National Income (see Article 10a of Regulation (EU, Euratom) No 609/2014).

Article 13 of the proposal, ‘adjustments to the Own Resources based on the Common Consolidated Corporate Tax Base and on the Plastic packaging waste of previous financial years’ adapts the provisions of Article 10b of Regulation (EU, Euratom) No 609/2014, applicable to the Own Resources based on Value Added Tax and Gross National Income. Now, two new Own Resources will be included in the yearly balances exercise where the forecasts are compared with the first real data. In a second step, the total amount of balances is distributed among the Member States according to their GNI share (netting). It also states that the corrections or adjustments following inspections shall be made available at the date specified by the Commission. The amounts stemming from the results of inspections will not be included in the yearly balances exercise.

Article 14, ‘bringing forward twelfths’ mirrors Article 10a(2) of Regulation (EU, Euratom) No 609/2014 and is made applicable to the Own Resources based on the Common Consolidated Corporate Tax Base and Plastic packaging waste.

Article 15, ‘interest on amounts made available belatedly’ mirrors Article 12 of Regulation (EU, Euratom) No 609/2014. Interest will be due for any delay in making available the Own Resource based on the European Union Emissions Trading System, as it is the case with Traditional Own Resources. With regard to the Own Resources based on the Common Consolidated Corporate Tax Base and on Plastic packaging waste, as it is the case with those based on the Value Added Tax and Gross National Income, there is an exhaustive list of reasons for which interest should be payable.

Chapter V ‘Management of cash resources’

Article 16 ‘requirements on management of cash resources and execution of payment orders’ refers to Articles 14 and 15 of Regulation (EU, Euratom) No 609/2014.

Chapter VI ‘Final provisions’

Article 17 of the proposal, ‘Committee procedure’, provides for implementing powers to be conferred on the Commission in accordance with Regulation (EU) No 182/2011.

Article 18 of the proposal, ‘transitional provisions’, defines the provisions for the transitional period.

Article 19 of the proposal, ‘entry into force’, states that the Regulation will enter into force at the same time as the Own Resources Decision. The Regulation will apply retroactively from 1 January 2021 for the Own Resources based on the European Union Emissions Trading System and on Plastic packaging waste. Concerning the Own Resource based on the Common Consolidated Corporate Tax Base, those provisions shall apply from the second year following the end of the transposition period for the Directive on the Common Consolidated Corporate Tax Base.

Proposal for a

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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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 322(2) thereof,

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament¹⁰,

Having regard to the opinion of the European Court of Auditors¹¹

Whereas:

- (1) The Union must have the Own Resources referred to in Article 2(1)(c), (d) and (e) of Council Decision 20xx/xxxx/EU, Euratom¹² available to the Union in the best possible conditions and, accordingly, rules should be laid down for the Member States to provide the Commission with those Own Resources.
- (2) Council Regulation (EU, Euratom) No 609/2014¹³ contains provisions on making available of Own Resources and on administrative arrangements that are common to other Own Resources and that can be applied, where appropriate, *mutatis mutandis*.
- (3) Member States should keep at the disposal of the Commission and, where necessary, forward to it the documents and information needed to allow it to exercise the power

¹⁰ OJ C [...], [...], p. [...].

¹¹ OJ C [...], [...], p. [...].

¹² Council Decision 20xx/xxxx/EU, Euratom on the system of own resources of the European Union (OJ L [...], [...], p. [...]).

¹³ Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (OJ L 168, 7.6.2014, p. 39).

conferred on it as regards the Own Resources of the Union. In particular, Member States should transmit to the Commission periodical statements of Own Resources.

- (4) Member States should be able to provide to the Commission at all times with the documents substantiating the Own Resources collected.
- (5) The calculation of the applicable rate of the Own Resource based on Gross National Income should be done after revenue from all the other Own Resources referred to in Article 2(1)(a), (b), (c), (d) and (e) of Decision 20xx/xxxx/EU, Euratom and from financial contributions to supplementary research and technological development programmes and other revenue have been added.
- (6) The gross reductions referred to in the fourth subparagraph of Article 2(1) of Decision 20xx/xxxx/EU, Euratom granted to Germany should be taken into account for the entry into the accounts of the Own Resource based on Gross National Income pursuant to the third subparagraph of Article 6(3) of Regulation (EU, Euratom) No 609/2014 and the making available of this Own Resource pursuant to Article 10a of that Regulation.
- (7) In order to ensure that the budget of the Union will be financed in all circumstances, a procedure should be laid down, as regards the Own Resources based on the Common Consolidated Corporate Tax Base and Plastic packaging waste, for Member States to make available to the Union, in the form of monthly twelfths, the Own Resources entered in the budget and subsequently to adjust the amounts made available.
- (8) The methods of calculation of the new Own Resources should be clearly defined in combination with the applicable call rates established in Article 1 of Council Regulation (EU, Euratom) No 20xx/xxxx¹⁴.
- (9) The Own Resources must be made available in the form of an entry of the amounts due in the account referred to in Article 9 of Regulation (EU, Euratom) No 609/2014, opened for this purpose in the name of the Commission with the Treasury or with the body appointed by each Member State.
- (10) In the interest of simplification, the procedure for adjusting the Own Resources based on the Common Consolidated Corporate Tax Base and on Plastic packaging waste should be streamlined to adjustment provisions for existing Own Resources. There should be an immediate redistribution of the overall amount of adjustments among Member States.
- (11) The Commission must have sufficient cash resources to comply with the regulatory requirements for payments concentrated in the opening months of the year, in so far as it is justified by cash requirements.
- (12) In order to achieve the Union's objectives, the procedure for calculating interest should ensure in particular that Own Resources are made available in a timely manner and in full. Member States should pay interest in the event of delays in entering the Own Resources into the accounts. In accordance with the principle of sound financial

¹⁴ Council Regulation (EU, Euratom) No 20xx/xxxx of [DATE] laying down implementing measures for the system of own resources of the European Union (OJ L [...], [...], p. [...]).

management, care should be taken that the cost of recovery of interest due on Own Resources made available belatedly does not exceed the amount of the interest payable.

- (13) In order to facilitate proper application of the financial rules relating to Own Resources it is necessary to include provisions ensuring close collaboration between Member States and the Commission.
- (14) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards establishing forms for the Own Resources' statements. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁵.
- (15) The advisory procedure should be used for the adoption of implementing acts in order to establish forms for the Own Resources' statements given the technical nature of those acts.
- (16) For reasons of consistency and taking account of Article 9 of Decision 20xx/xxxx/EU/Euratom, this Regulation should enter into force on the same day as that Decision and should apply from 1 January 2021. The provisions covering the Own Resource referred to in Article 2(1)(c) of Decision 20xx/xxxx/EU, Euratom should apply from the day set in accordance with Article 9 of that Decision,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down rules on calculating and making available to the Commission the Own Resources of the Union referred to in Article 2(1)(c), (d) and (e) of Decision 20xx/xxxx/EU, Euratom and sets the calculation of the applicable rate of the Own Resource based on Gross National Income referred to in Article 2(1)(f) of that Decision.

Article 2

Conservation of supporting documents

1. Member States shall take all appropriate measures to ensure that the supporting documents concerning the calculation, establishment and making available of the Own

¹⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Resource based on the European Union Emissions Trading System are kept for at least three calendar years, counting from the end of the year to which those supporting documents refer.

The supporting documents relating to the Own Resources based on the Common Consolidated Corporate Tax Base and on Plastic packaging waste shall be kept by the Member States until 31 July of the sixth year following the financial year in question.

2. If verification pursuant to Article 4 of Regulation (EU, Euratom) No 20xx/xxxx of the supporting documents referred to in paragraph 1 shows that a correction or adjustment is required, those documents shall be kept beyond the time limit provided for in paragraph 1 for a sufficient period to permit the correction or adjustment to be made and monitored.

3. Where a dispute between a Member State and the Commission concerning the obligation to make available a certain amount of the Own Resources referred to in Article 2(1)(c), (d) and (e) of Decision 20xx/xxxx/EU, Euratom is settled by mutual agreement or by a decision of the Court of Justice of the European Union, the Member State shall transmit the supporting documents necessary for the financial follow-up to the Commission within two months after that settlement.

Article 3

Administrative cooperation

1. Each Member State shall inform the Commission of the following:

- (a) the names of the departments or agencies responsible for calculating or establishing, collecting, making available and controlling Own Resources and the basic provisions relating to the role and operation of those departments and agencies;
- (b) the general provisions laid down by law, regulation or administrative action and those relating to the accounting procedure concerning the calculation or establishment, collection, making available and control by the Commission of Own Resources;
- (c) the precise title of all administrative and accounting records in which the Own Resources are entered, in particular those used for drawing up the accounts provided for in Article 5.

The Commission shall be informed immediately of any change in these names or provisions referred to in the first subparagraph.

2. The Commission shall, at the request of a Member State, transmit to all Member States the information referred to in the first paragraph.

Article 4

Effects on the Own Resource based on Gross National Income

1. For the purposes of setting the uniform rate referred to in Article 5 of Regulation (EU, Euratom) No 609/2014, the revenue referred to in Article 2(1)(c), (d) and (e) of Decision 20xx/xxxx/EU, Euratom shall be added to the revenue referred to in Article 2(1)(a) and (b) of that Decision in order to calculate the part of the budget to be covered by the Own Resource based on the Gross National Income.

2. The third subparagraph of Article 6(3) and Article 10a of Regulation (EU, Euratom) No 609/2014 shall apply to the gross reduction granted to Germany referred to in the fourth subparagraph of Article 2(1) of Decision 20xx/xxxx/EU, Euratom.

CHAPTER II

ACCOUNTS FOR OWN RESOURCES

Article 5

Entry in the accounts and reporting

1. Accounts for Own Resources shall be kept by the treasury of each Member State or a public entity exercising similar functions ('treasury'), or by the national central bank of each Member State. Those accounts shall be broken down by type of resources.

2. For own-resources accounting purposes, the month shall end no earlier than 1 p.m. on the last working day of the month during which the calculation or the establishment took place.

3. The twelfths concerning the Own Resources based on the Common Consolidated Corporate Tax Base and on Plastic packaging waste shall be entered in the accounts on the first working day of each month.

The amounts from the Own Resource based on the European Union Emissions Trading System for a given month shall be entered in the accounts on the first working day of the second month following the month in which the allowances were auctioned or in which the transitional free allowances for the modernisation of the energy sector were issued.

The result of the calculation referred to in Article 13 shall be recorded annually.

4. Each Member State shall send to the Commission, within the time limit specified in the second subparagraph of paragraph 3, a monthly statement of its accounts for the Own Resources based on the European Union Emissions Trading System.

5. Each Member State shall send to the Commission by 15 April of each year an annual statement with its forecast and estimates of the Own Resources referred to in Article 2(1)(c), (d) and (e) of Decision 20xx/xxxx/EU, Euratom for the current and the following year.

The forecast for the Own Resource based on the European Union Emissions Trading System shall be the amount in the annual statement for the previous year referred to in paragraph 6(b).

6. Each Member State shall send to the Commission by 31 July the following statements with the amounts of Own Resources calculated:

- (a) an annual statement for the second year preceding the current year ('n-2') with the amount of taxable profits declared in that Member State by the tax payers, including the part of those taxable profits attributed to other Member States, and the amount of taxable profits that were attributed to the declaring Member State by other Member States, pursuant to Union rules; and an annual statement for the second year preceding the current year ('n-2') with the calculation of the amounts of Own Resources pursuant to Article 7;
- (b) an annual statement for the previous year preceding the current year ("n-1") with the revenue of the auctions of allowances referred to in Article 10(2)(a) of Directive 2003/87/EC; an annual statement for the previous year with the number of transitional free allowances for the modernization of the energy sector pursuant to Article 10c of that Directive, and their market value; and an annual statement for the previous year with the calculation of the amounts of Own Resources pursuant to Article 8;
- (c) an annual statement for the second year preceding the current year ('n-2') with the statistical data on the weight of Plastic packaging waste generated in the Member State in kilograms and on the weight of that Plastic packaging waste that was recycled in kilograms; and an annual statement for the second year preceding the current year ('n-2') with the calculation of the amounts of Own Resources pursuant to Article 9.

For the purposes of point (a) the data to be provided by Member States shall be limited to the taxable profits of the tax payers for whom the Union rules on the Common Consolidated Corporate Tax Base are mandatory.

7. The Commission may adopt implementing acts establishing forms for the Own Resources' statements referred to in paragraphs 4, 5 and 6. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 17(2).

Article 6

Accounting corrections for the Own Resource based on the European Union Emissions Trading System

For the Own Resource based on the European Union Emissions Trading System referred to in Article 2(1)(d) of Decision 20xx/xxxx/EU, Euratom, no further corrections shall be made to the statements communicated by Member States for a given year after 31 December of the third year following the year in question, except on points notified before that date either by the Commission or by the Member State concerned.

CHAPTER II

CALCULATION OF OWN RESOURCES

Article 7

Calculation of the Own Resource based on the Common Consolidated Corporate Tax Base

1. The Own Resource based on the Common Consolidated Corporate Tax Base, referred to in Article 2(1)(c) of Decision 20xx/xxxx/EU, Euratom, shall be calculated each year by each Member State by applying a uniform call rate specified in Article 1(2) of Regulation (EU, Euratom) No 20xx/xxxx to the share of taxable profits attributed to that Member State pursuant to Union rules on the Common Consolidated Corporate Tax Base.
2. The amount of the Own Resource based on the Common Consolidated Corporate Tax Base for one year shall be determined based on a forecast made by 15 April of the previous year.

Article 8

Calculation of the Own Resource based on the European Union Emissions Trading System

1. The Own Resource based on the European Union Emissions Trading System, referred to in Article 2(1)(d) of Decision 20xx/xxxx/EU, Euratom, shall be calculated by each Member State by applying the uniform call rate determined in Article 1(3) of Regulation (EU, Euratom) No 20xx/xxxx 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.
2. The Own Resource referred to in paragraph 1 shall be calculated on a monthly basis and converted into national currencies at the rates of exchange of the last day of quotation of the calendar year preceding the reference period, as published in the *Official Journal of the European Union*, C series.

Article 9

Calculation of the Own Resource based on Plastic packaging waste that is not recycled

1. The Own Resource based on Plastic packaging waste that is not recycled referred to in Article 2(1)(e) of Decision 20xx/xxxx/EU, Euratom shall be calculated by applying the uniform call rate set in Article 1(4) of Regulation (EU, Euratom) No 20xx/xxxx to the difference between the weight of the Plastic packaging waste generated in a Member State within a given year and the weight of that Plastic packaging waste that is recycled.
2. For each Member State, the Own Resource based on Plastic packaging waste shall be calculated in euro.

3. The amount of the Own Resource based on Plastic packaging waste that is not recycled for one year shall be determined based on a forecast made by 15 April of the previous year.

CHAPTER IV

MAKING AVAILABLE OWN RESOURCES

Article 10

Treasury and accounting arrangements

Article 9 of Regulation (EU, Euratom) No 609/2014 shall apply *mutatis mutandis* to the Own Resources referred to in Article 2(1)(c), (d) and (e) of Decision 20xx/xxxx/EU, Euratom.

Article 11

Making available the Own Resources based on the Common Consolidated Corporate Tax Base and on Plastic packaging waste that is not recycled

1. The amounts calculated pursuant to Article 7 and Article 9 for each calendar year shall be credited on the first working day of each month. These amounts shall be one-twelfth of the relevant totals in the budget, converted into national currencies at the rates of exchange of the last day of quotation of the calendar year preceding the budget year, as published in the *Official Journal of the European Union*, C series.

2. The amounts mentioned in paragraph 1 shall be entered in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014 on the first working day of the month.

3. Any change in the uniform call rate of the Own Resources referred to in Article 2(1)(c) and (e) of Decision 20xx/xxxx/EU, Euratom shall require the final adoption of an amending budget and shall give rise to readjustments of the twelfths that have been entered in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014 since the beginning of the financial year.

These readjustments shall be carried out when the first entry is made following the final adoption of the amending budget if it is adopted before the 16th of the month. Otherwise they shall be carried out when the second entry following final adoption is made. By way of derogation from Article 11 of the Financial Regulation, these readjustments shall be entered in the accounts in respect of the financial year of the amending budget in question.

4. Calculation of the twelfths for January of each financial year shall be based on the amounts provided for in the draft budget, referred to in Article 314(2) of the Treaty on the Functioning of European Union and converted into national currencies at the rates of exchange of the first day of quotation following 15 December of the calendar year preceding the budget year; the adjustment shall be made with the entry for the following month.

5. If the budget has not been finally adopted at the latest two weeks before the entry for January of the following financial year, the Member States shall enter on the first working day

of each month, including January, one-twelfth of the amount of the Own Resources referred to in Article 2(1)(c) and (e) entered in the last budget finally adopted; the adjustment shall be made on the first due date following final adoption of the budget if it is adopted before the 16th of the month. Otherwise, the adjustment shall be made on the second due date following final adoption of the budget.

Article 12

Making available the Own Resource based on the European Union Emissions Trading System

The amounts calculated pursuant to Article 8 shall be entered in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014 on the first working day of the second calendar month following the month in which the calculation should have been made.

Article 13

Adjustments to the Own Resources based on the Common Consolidated Corporate Tax Base and on the Plastic packaging waste of previous financial years

1. On the basis of the annual statements mentioned in Article 5, each Member State shall, in the year following that in which that statement was transmitted, be debited or credited with an amount calculated from the difference between the amounts in the forecast for a given year and the statement with the real amounts for that same year.

2. For each Member State, the Commission shall calculate the difference between the amounts resulting from the adjustments referred to in paragraph 1 and the product of multiplying the total amounts of adjustments by the percentage that the Gross National Income of that Member State represents of the Gross National Income of all Member States, as applicable on 15 January to the budget in force for the year following that in which the data for the adjustments was supplied (the 'net amount').

For the purposes of this calculation, amounts shall be converted between the national currency and the euro at the rates of exchange of the last day of quotation of the calendar year preceding the year of entry in the accounts, as published in the *Official Journal of the European Union*, C series.

The Commission shall inform the Member States of the amounts resulting from this calculation before 1 February of the year following that in which the data for the adjustments was supplied. Each Member State shall enter the net amount in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014 on the first working day of June of that same year.

3. Any corrections or adjustments following inspections to the statements referred to in Article 5 for previous financial years shall give rise to a particular adjustment of the entries in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014. That adjustment shall be made available on the date specified by the Commission.

4. After 31 July of the sixth year following a given financial year, any changes shall no longer be taken into account, except on points notified within this time limit either by the Commission or by the Member State.

5. The operations referred to in this Article constitute revenue operations in respect of the financial year in which they are to be entered in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014.

Article 14

Bringing forward twelfths

For the specific needs of paying expenditure of [the EAGF pursuant to Regulation (EU) No 1307/2013 of the European Parliament and of the Council¹⁶,] and depending on the Union's cash position, Member States may be invited by the Commission to bring forward, by up to two months in the first quarter of the financial year, the entry of one-twelfth, or a fraction thereof, of the amounts in the budget for the Own Resources based on the Common Consolidated Corporate Tax Base and on Plastic packaging waste.

Subject to the third subparagraph, for the specific needs of paying expenditure of [the European Structural and Investment Funds pursuant to Regulation (EU) No 1303/2013 of the European Parliament and of the Council¹⁷], and depending on the Union's cash position, Member States may be invited by the Commission to bring forward, in the first six months of the financial year, the entry of up to an additional half of one-twelfth of the amounts in the budget for the Own Resources based on the Common Consolidated Corporate Tax Base and on Plastic packaging waste.

The total amount that Member States may be invited by the Commission to bring forward in the same month under the first and second subparagraphs shall, in any event, not exceed an amount corresponding to two additional twelfths.

After the first six months, the monthly entry requested may not exceed one-twelfth of the Own Resources based on the Common Consolidated Corporate Tax Base and on Plastic packaging waste, while remaining within the limit of the amounts entered in the budget for that purpose.

The Commission shall notify the Member States thereof in advance, no later than two weeks before an entry requested pursuant to the first and second subparagraphs.

¹⁶ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

¹⁷ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

The Commission shall inform the Member States well in advance, and no later than six weeks before an entry requested pursuant to the second subparagraph, of its intention to request such an entry.

Paragraph 4 of Article 11, concerning the amount to be entered in January each year, and paragraph 5 of Article 11, applicable if the budget has not been finally adopted before the beginning of the financial year, shall apply to these advance entries.

Article 15

Interest on amounts made available belatedly

1. Any delay in making the entry of the Own Resource based on the European Union Emissions Trading System in the account referred to in Article 9(1) of Regulation (EU, Euratom) No 609/2014 shall give rise to the payment of interest by the Member State concerned.

2. For the Own Resources based on the Common Consolidated Corporate Tax Base and on Plastic packaging waste that is not recycled, interest shall be payable only in relation to delays in entering the following amounts:

(a) amounts referred to in Article 11;

(b) amounts resulting from the calculation referred to in the first paragraph of Article 13, at the moment specified in the third subparagraph of the second paragraph thereof;

(c) amounts resulting from particular adjustments referred to in Article 13(3);

(d) amounts resulting from failure of a Member State to provide data; the interest on the adjustments resulting from the corrections made due to that failure shall be calculated as from the first working day of June of the year following that, in which the explicit time limit set by the Commission expired.

3. The recovery of amounts of interest below EUR 500 shall be waived.

4. Interest shall be levied at the rates and conditions provided for in Article 12(4) and (5) of Regulation (EU, Euratom) No 609/2014.

5. For the payment of interest referred to in paragraphs 1 and 2 of this Article, Article 9(2) and (3) of Regulation (EU, Euratom) No 609/2014 shall apply *mutatis mutandis*.

CHAPTER V

MANAGEMENT OF CASH RESOURCES

Article 16

Requirements on management of cash resources and execution of payment orders

Articles 14 and 15 of Regulation (EU, Euratom) No 609/2014 shall apply *mutatis mutandis* to the Own Resources referred to in Article 2(1)(c), (d) and (e) of Decision 20xx/xxxx/EU, Euratom.

CHAPTER VI

FINAL PROVISIONS

Article 17

Committee procedure

1. The Commission shall be assisted by the Advisory Committee on Own Resources established by Article 9 of Regulation (EU, Euratom) No 20xx/xxxx. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Article 18

Transitional provisions

1. The Own Resource referred to in Article 2(1)(c) of Decision 20xx/xxxx/EU, Euratom shall be calculated and made available as of the date referred to in the fifth paragraph of Article 9 of that Decision. Member States shall provide the first forecast for that Own Resource for the first year of application of provisions on the Own Resource by 15 April of the preceding year.

2. Before the last day of the month following the entry into force, each Member State shall provide the Commission with the calculation pursuant to Article 8 for the period from January 2021 to the month before entry into force of this Regulation. For the remaining months of the year of entry into force of this Regulation and the year that follows, the forecast of the amount of the Own Resource referred to in Article 2(1)(d) of Decision 20xx/xxxx/EU, Euratom shall be provided by the last day of the month following the entry into force of this Regulation.

3. Before the last day of the month following the entry into force of this Regulation, each Member State shall provide the Commission with an annual statement with the amount of the Own Resource referred to in Article 2(1)(e) of Decision 20xx/xxxx/EU, Euratom for any year from 2021 onwards where statistical data are available in order to perform the calculation

referred to in Article 9 of this Regulation. For the other years until the year following the entry into force the forecast of the amount of the Own Resource referred to in Article 2(1)(e) of Decision 20xx/xxxx/EU, Euratom shall be provided by the last day of the month following the entry into force of this Regulation.

Article 19

Entry into force

This Regulation shall enter into force on the day of entry into force of Decision 20xx/xxxx/EU, Euratom.

It shall apply from 1 January 2021.

The provisions of this Regulation shall apply to the Own Resource based on the Common Consolidated Corporate Tax Base as 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.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management mode(s) planned

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
 - 3.2.1. *Summary of estimated impact on expenditure*
 - 3.2.2. *Estimated impact on operational appropriations*
 - 3.2.3. *Estimated impact on appropriations of an administrative nature*
 - 3.2.4. *Compatibility with the current multiannual financial framework*
 - 3.2.5. *Third-party contributions*
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

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

Proposal for a Council Regulation laying down implementing measures for the system of Own Resources of the European Union

Proposal for a Council Regulation amending Council Regulation (EEC, EURATOM) No 1553/89 on the definitive uniform arrangements for the collection of Own Resources accruing from Value Added Tax.

1.2. Policy area(s) concerned in the ABM/ABB structure¹⁸

EU budget revenue (Title 1, Own Resources)

1.3. Nature of the proposal/initiative

The proposal/initiative relates to **a new action**

The proposal/initiative relates to **a new action following a pilot project/preparatory action**¹⁹

The proposal/initiative relates to **the extension of an existing action**

The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objective(s)

1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

Diversification of the revenue side of the EU budget with a basket of Own Resources built on complementarities to enhance fiscal coherence, resilience and fairness and to finance the the financing gap resulting from the withdrawal of the United Kingdom from the Union.

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Specific objective No

¹⁸ ABM: activity-based management; ABB: activity-based budgeting.

¹⁹ As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

Not applicable

ABM/ABB activity(ies) concerned

Title 1, Own Resources

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

A basket of new Own Resources will provide fresh revenue to the EU budget, putting back genuine Own Resources in terms of linking them to key EU policies (climate change, environmental policy, plastics strategy, circular economy, Single Market) as well as financing the the financing gap resulting from the withdrawal of the United Kingdom from the Union.

With a basket of Own Resources, the composition of the EU budget revenue side would be more akin to the structure of national budgets.

1.4.4. *Indicators of results and impact*

Specify the indicators for monitoring implementation of the proposal/initiative.

This proposal should provide the framework for a timely and correct making available to the EU budget of standard rate Value Added Tax (VAT), Common Consolidated Corporate Tax Base (CCCTB), Emissions Trading System (ETS) and Plastic packaging waste based Own Resources.

1.5. **Grounds for the proposal/initiative**

1.5.1. *Requirement(s) to be met in the short or long term*

The rules for making available to the EU budget the standard rate VAT, CCCTB, ETS and Plastic packaging waste based Own Resources should be agreed upon in time in order to ensure the timely implementation of the new Own Resources basket.

1.5.2. *Added value of EU involvement*

Cf. 1.4.3 above.

1.5.3. *Lessons learned from similar experiences in the past*

These proposals are connected to the Own Resources Decision and to Council Regulation 609/2014. Together they clarify the interaction between the Own Resources provisions and the legislative acts on VAT, CCCTB, ETS and Plastic packaging waste.

1.5.4. *Compatibility and possible synergy with other appropriate instruments*

Not applicable

1.6. Duration and financial impact

- Proposal/initiative of **limited duration**
 - Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
 - Financial impact from YYYY to YYYY
- Proposal/initiative of **unlimited duration**
 - Implementation with a start-up period from 1/1/2020 to 31/12/2020,
 - followed by full-scale operation from 1/1/2021.

1.7. Management mode(s) planned²⁰

- Direct management** by the Commission
 - by its departments, including by its staff in the Union delegations;
 - by the executive agencies
- Shared management** with the Member States
- Indirect management** by entrusting budget implementation tasks to:
 - third countries or the bodies they have designated;
 - international organisations and their agencies (to be specified);
 - the EIB and the European Investment Fund;
 - bodies referred to in Articles 208 and 209 of the Financial Regulation;
 - public law bodies;
 - bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
 - bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
 - persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.
- *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

²⁰ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

Not applicable

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The provisions for the monitoring and reporting in relation to making available the standard rate VAT, CCCTB, ETS and Plastic packaging waste based Own Resources can be found in the the Proposal for a Council Regulation laying down implementing measures for the system of Own Resources of the European Union.

2.2. Management and control system

2.2.1. Risk(s) identified

The main potential risks include: the incorrect establishment of the standard rate VAT, CCCTB, ETS and Plastic packaging waste based Own Resources, the incorrect entry in the accounts, the late making available of the resource, and accounting errors.

2.2.2. Information concerning the internal control system set up

Control methods are envisaged in the proposal which also includes specific provisions on administrative cooperation and comitology procedures.

2.2.3. Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error

Cf. 2.2.1 and 2.2.2 above.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

Provisions on control and supervision for the calculation of the standard rate VAT, CCCTB, ETS and Plastic packaging waste based Own Resources are included in the accompanying Council Regulations

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

Not applicable. The proposed new Own Resources should not lead to additional human resources requirements.

3.2. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
 - on Own Resources
 - on miscellaneous revenue

EUR billion (current prices)

Budget revenue line:	Appropriations available for the current financial year	Year 2021	Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	Year 2027
GNI-based Own Resource	102.7	101.5	104.7	101.2	102.6	104.0	105.5	107.0
Traditional Own Resource	22.8	24.0	24.7	25.5	26.4	27.2	28.1	28.9
VAT-based Own Resource	17.2	22.4	23.1	23.8	24.6	25.4	26.3	27.1
CCCTB-based Own Resource	-	-	-	15.3	15.8	16.4	16.9	17.5
ETS-based Own Resource	-	3.0	3.0	3.0	3.0	3.0	3.0	3.0
Plastic-based Own Resource	-	6.6	6.6	6.6	6.7	6.7	6.7	6.6

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

Not applicable

Specify the method for calculating the impact on revenue.

Cfr. Calculation method of each Own Resource in the 'Commission staff working document. Financing the EU budget: report on the operation of the Own Resources system' (SWD(2018) 172):

Standard rate VAT Own Resource p. 22

CCCTB Own Resource p. 25

ETS Own Resource p. 27

