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DRAFT AMENDING BUDGET No 1 TO THE GENERAL BUDGET 2023

Technical adjustments stemming from the political agreements reached on several legislative proposals, including with respect to REPowerEU, the Carbon Border Adjustment Mechanism and the Union Secure Connectivity programme

Having regard to:

– the Treaty on the Functioning of the European Union, and in particular Article 314 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

– Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union[1], entered into force on 1 June 2021,

– Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union (…)[2], and in particular Article 44 thereof,

– the general budget of the European Union for the financial year 2023, as adopted on 23 November 2022[3],

The European Commission hereby presents to the European Parliament and to the Council Draft Amending Budget No 1 to the 2023 budget.

CHANGES TO THE STATEMENT OF REVENUE AND EXPENDITURE BY SECTION

The changes to the general statement of revenue and to the individual section III are available on EUR-Lex (https://eur-lex.europa.eu/budget/www/index-en.htm).

1 Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom, OJ L 424, 15.12.2020.

2 Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, OJ L 193, 30.7.2018.

3 OJ L 58, 23.2.2023.

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EXPLANATORY MEMORANDUM

1. INTRODUCTION

The purpose of Draft Amending Budget No 1 for the year 2023 (DAB 1) is to introduce the necessary technical changes to the 2023 budget stemming from the political agreements reached on several legislative proposals, in particular with respect to REPowerEU, the Carbon Border Adjustment Mechanism (CBAM) and the Union Secure Connectivity programme.

In particular, DAB 1 covers the following elements:

- adjustment of the budgetary nomenclature and remarks following the adoption of the REPowerEU plan[4] and Regulation[5] with targeted amendments to the Recovery and Resilience Facility Regulation (RRF)[6], the Emissions Trading Schemes (ETS) Directive[7] as well as the Brexit Adjustment Reserve (BAR) Regulation[8];

- transferring the operational line of the CBAM from heading 1 to heading 3 of the Multiannual Financial Framework (MFF), in line with the final agreement reached in December 2022 by the European Parliament and the Council on the establishment of the CBAM, while adjusting the staffing and other administrative appropriations under heading 7 as per the revised legislative financial statement (LFS);

- reinforcement of the Space Secure Connectivity programme for an amount of EUR 50 million in commitment appropriations, in order to complete the financing of the programme for the period until the end of 2027[9];

- adjusting the EU contribution and/or staff numbers of the Anti-Money Laundering Authority (AMLA), the European Union Agency for the Cooperation of Energy Regulators (ACER), the Agency for support to the Body of European Regulators for Electronic Communications (BEREC) and the European Chemicals Agency (ECHA) to take account of changes in their mandates;

- adjusting the establishment plan of the Health and Digital Executive Agency (HaDEA) to take account of a minor change in the staff structure of the executive agency;

- increasing the level of appropriations of the European Data Protection Supervisor (EDPS) to finance legal fees following an increase of litigation cases relating to the application of the General Data Protection Regulation[10].

Overall, the net impact of DAB 1 on expenditure amounts to an increase of EUR 52,6 million in commitment appropriations. No additional payment appropriations are requested.

2. REPOWEREU

The geopolitical context has changed considerably since the adoption of the Regulation establishing the Recovery and Resilience Facility ('RRF')[11]. To address new challenges, on 18 May 2022 the Commission proposed to reinforce the firepower of the RRF through the REPowerEU plan.

4 COM(2022) 230, 18.5.2022.
5 COM(2022) 231, 18.5.2022.
6 OJ L 57, 18.2.2021.
7 Directive 2003/87/EC.
8 OJ L 357, 8.10.2021.
9 COM(2022) 57, 15.2.2022.
10 OJ L 119, 4.5.2016.

The Regulation[12] on the creation of dedicated REPowerEU chapters in the recovery and resilience plans defines specific REPowerEU objectives that should be addressed by the investments and reforms to be included in the existing recovery and resilience plans ('RRPs'). In addition, the Regulation provides for additional sources of dedicated funding to finance the relevant measures. This includes additional revenue from auctioning of allowances from the Emissions Trading System under Directive 2003/87/EC as well as from voluntary transfers from the Brexit Adjustment Reserve (BAR). The additional financial support related to the REPowerEU chapters will be disbursed complementary to the initial RRF financial contribution and, where applicable, the loan support, according to a common instalment schedule.

On 1 February 2023[13], the Commission published new guidance on the recovery and resilience plans. In order to ensure a rapid roll-out of REPowerEU measures, Member States should strive to submit their modified RPPs which include REPowerEU chapters by 30 April 2023. This is prior to the legal deadline of 31 August 2023, bearing in mind that the deadline for committing the amounts available under the remaining 30 % of the grant allocation is end-2023. In order to allow the Commission to make the budgetary commitments in a timely manner upon the adoption of the Council implementing decisions, the Commission proposes to make all the necessary additional adjustments to the budget nomenclature and budget remarks in DAB 1. Accordingly, the Commission proposes to create a new budget line 16 02 04 'Recovery and Resilience Facility - Contribution from the BAR' as follows:

EUR

Budget line	**Name**	**Commitment appropriations**	**Payment appropriations**
Section III – Commission			
16 02 04	Recovery and Resilience Facility - Contribution from the BAR	p.m.	p.m.
Total		**p.m.**	**p.m.**

Additionally, it is proposed to delete the budget line 08 03 05 "Recovery and Resilience Facility - Contribution from the EAFRD" and to include estimates with regard to the additional funding from the REPowerEU ETS for the budget Chapter 06 02 – Recovery and Resilience Facility and Technical Support Instrument.

The corresponding budget remarks are set out in the budgetary annex.

3. CARBON BORDER ADJUSTMENT MECHANISM (CBAM)

The initial Commission proposal for the establishment of the Carbon Border Adjustment Mechanism (CBAM)[14] was based on a decentralised governance model with substantial involvement of the Member States in the implementation of the mechanism. As set out in the original legislative financial statement (LFS) accompanying the proposal, this would have required the development of a relatively modest IT system (which the Commission proposed to finance in the Draft Budget 2023 under the operational heading 1 Single Market, Innovation and Digital) and limited human resources in the Commission (a maximum of eight establishment plan posts at full cruising speed, to be financed under heading 7 European Public Administration).

However, the final agreement reached by the European Parliament and the Council in December 2022 on the establishment of the Mechanism is based on a centralised governance model, which requires

11 OJ L 57, 18.2.2021.
12 COM(2022) 230, 18.5.2022.
13 C(2023)876 Annex.
14 COM(2021) 564, 14.7.2021.

heavy involvement of the Commission in the implementation and the development and maintenance of a substantial IT system. At the same time, the co-legislators did not retain the option of financing CBAM from external assigned revenue accruing from the Emissions Trading System. Therefore, the increased costs for the IT system will have to be financed from the margin under the expenditure ceiling of heading 3 (Natural Resources and Environment), whereas the additional Commission staff will have to be financed under heading 7.

On 1 February 2023 the Commission transmitted a revised LFS to the European Parliament and the Council, which sets out the budgetary impact of the new governance model covering the period 2023-2027. The Commission proposes to include the impact for the financial year 2023 in DAB 1, with some minor reductions of appropriations as compared to the estimates in the revised LFS for 2023. Notably, given the need to accelerate the preparations for the creation of the IT system, the Commission has been able to cover EUR 7,7 million of the CBAM needs identified in the revised LFS by appropriations available under the Customs and Fiscalis programmes in 2023.

Accordingly, the Commission proposes to create a new budget line for CBAM in heading 3 with a level of respectively EUR 4,1 million in commitment appropriations and EUR 1,6 million in payment appropriations and to delete the existing budget line in heading 1, while adding the appropriations to the corresponding margin under heading 1, as follows:

EUR

Budget line	**Name**	**Commitment appropriations**	**Payment appropriations**
Section III – Commission			
30 02 02	Differentiated appropriations (Reserve for budget article 03 20 03 02)	-2 250 000	-2 250 000
09 20 04 01	Carbon Border Adjustment Mechanism	4 150 000	1 565 679
Total		**1 900 000**	**-684 321**

As regards staffing, the Commission was fully ready to address the initial staffing needs of up to eight posts under the decentralised governance model by reallocation and reprioritisation of resources within the institution, in line with the policy of stable staffing which the Commission has implemented since the start of the current MFF. However, an estimated 90 staff will be needed to ensure the centralised management of CBAM at full cruising speed, of which 16 posts and four external staff in 2023. Also given that the Commission has met the needs of other priority areas within its stable staffing policy over the past years, such as for the COVID-19 response, the energy crisis and the extensive work in relation to Ukraine, it is not possible to find such large staff numbers by redeployment, without jeopardising other critical ongoing activities. That is why the Commission issued a unilateral statement on the financing of human resources for CBAM on 1 February 2023:

"The Commission recalls that the final agreement reached by the co-legislators on the establishment of the carbon border adjustment mechanism (CBAM) has evolved significantly in terms of the human resources required for its implementation within the Commission, compared to the legislative financial statement which accompanied the original proposal (COM(2021) 564 final of 14.07.2021), which was based on a decentralised model of implementation.

The additional Commission human resources required by the final agreement endorsed by the co-legislators will not allow the Commission to respect the principle of stable staffing and will require additional resources, to be authorised by the European Parliament and the Council during the annual budget procedure along with the related budgetary appropriations.

Without any additional means, such as the external assigned revenue accruing from the ETS, the options to finance the necessary administrative costs (staff and IT) of CBAM cannot be easily found.

Heading 7 European Public Administration of the multiannual financial framework 2021-2027 was built on the principle of stable staffing, and there is no margin to finance additional officials.

The margin in Heading 3 Natural resources and Environment may in principle accommodate IT-related expenditure, subject to its limits. The reduced availabilities under the heading will limit the capacity of the EU budget to finance new political priorities."

It is against this background that the Commission now asks for an additional 16 posts in its operating establishment plan and four contract agents in 2023, as well as a corresponding amount of EUR 1,5 million to cover the related administrative expenditure in heading 7, assuming recruitment on average mid-year.

These additional staff will be carrying out tasks linked to both the implementation of CBAM and the IT project. As such, 12 AD posts will address the 2023 workload related to several delegated and implementing acts, the methodology for calculating embedded emissions, financial responsibility oversight and contracts and reports. Commission staff will also be needed to review and assess the functioning of the CBAM system and to implement the IT system. In addition, the strategic importance, the magnitude and complexity of the CBAM IT project require a dedicated CBAM IT team estimated at a total of 15 FTEs to manage the overall project implementation and operations. The Commission has already internally redeployed seven FTEs for this purpose. Eight further FTEs, of which four AD posts and four contract agents, are therefore needed in 2023.

EUR

Budget line	Name	Commitment appropriations	Payment appropriations
Section III – Commission			
20 01 02 01	Remuneration and allowances — Headquarters and Representation offices	764 000	764 000
20 01 02 02	Expenses and allowances related to recruitment, transfers and termination of service — Headquarters and Representation offices	181 000	181 000
20 02 01 01	Contract staff	122 591	122 591
20 02 06 01	Mission and representation expenses	75 000	75 000
20 02 06 02	Meetings, expert groups and conference's expenses	200 000	200 000
20 02 06 03	Meetings of committees	27 000	27 000
20 02 06 04	Studies and consultations	100 000	100 000
Total		**1 469 591**	**1 469 591**

The updated establishment plan is set out in the budgetary annex.

4. UNION SECURE CONNECTIVITY PROGRAMME

In the final trilogue on 23 November 2022, the co-legislators agreed to increase the financing of the Union Secure Connectivity initiative by EUR 50 million from the unallocated margin under the expenditure ceiling of Heading 1. In order to implement this agreement, the Commission proposes to include in DAB 1 an amount of EUR 50 million in commitment appropriations, which will contribute to the launch of procurement procedures in 2023. The current level of payment appropriations in the 2023 budget is considered sufficient to cover this year's payment needs.

EUR

Budget line	Name	Commitment appropriations	Payment appropriations
Section III – Commission			
04 03 01	Union Secure Connectivity — Contribution from Heading 1	50 000 000	0
Total		**50 000 000**	**0**

5. DECENTRALISED AGENCIES

5.1 Anti-Money Laundering Authority (AMLA)

The Commission proposal to establish the Anti-Money Laundering Authority (AMLA)[15] foresaw the start of activities in 2023. In accordance with Article 49 of the Financial Regulation, the foreseen amount of EUR 1 085 270 for 2023 was entered into the reserve (the 'provisions' title). Due to longer negotiations on the proposal, however, the activities will not start in 2023 and therefore the amount in the reserve can be cancelled. The margin in heading 1 will increase correspondingly.

EUR

Budget line	Name	Commitment appropriations	Payment appropriations
Section III – Commission			
30 02 02	Differentiated appropriations (Reserve for budget article 03 10 05)	- 1 085 270	- 1 085 270
Total		**- 1 085 270**	**- 1 085 270**

5.2 European Union Agency for the Cooperation of Energy Regulators (ACER)

The mandate of the European Union Agency for the Cooperation of Energy Regulators (ACER) is proposed to be extended by the following two new initiatives.

Firstly, the Council Regulation enhancing solidarity through better coordination of gas purchases, exchanges of gas across borders and reliable price benchmarks[16] tasks ACER with creating an objective price assessment tool, and over time a benchmark, of the EU's LNG imports by collecting real-time information on all daily transactions. In order to enable the agency to carry out its new tasks, the Commission proposes to increase the EU contribution to ACER by EUR 1,83 million in 2023. This includes the financing of five additional posts in the establishment plan of the agency. The increase in the EU contribution to ACER is proposed to be offset from the CEF-Energy programme.

Secondly, the Council Regulation establishing a market correction mechanism to protect citizens and the economy against excessively high prices[17] provides that ACER will exercise support in monitoring, activating and suspending the market correction mechanism. This entails additional tasks including as regards the functioning of commodity markets and security of supply, that are not currently part of the Commission's role. In order to enable the agency to carry out its new tasks, the Commission proposes to increase the EU contribution to ACER by EUR 942 000 in 2023. This includes the financing of six additional posts in the establishment plan of the agency. The increase in the EU contribution to ACER is proposed to be offset from the CEF-Energy programme.

The overall impact on expenditure is as follows:

EUR

Budget line	Name	Commitment appropriations	Payment appropriations
Section III – Commission			
02 10 06	European Union Agency for the Cooperation of Energy Regulators (ACER)	2 772 000	2 772 000
02 03 02	CEF Energy	- 2 772 000	- 2 772 000
Total		**0**	**0**

The updated establishment plan is set out in the budgetary annex.

15 COM(2021) 421, 20.07.2021.
16 OJ L 335, 29.12.2022, p. 1-35.
17 OJ L 335, 29.12.2022, p. 45-60.

5.3 Agency for support to the Body of European Regulators for Electronic Communications (BEREC Office)

Further to difficulties encountered by the Agency for support to the Body of European Regulators for Electronic Communications (BEREC Office) to allocate a sufficient number of temporary agent posts to its core management and administrative functions, the Commission proposes to add one post in the establishment plan. The additional establishment post will be financed within the existing EU contribution.

The updated establishment plan is set out in the budgetary annex.

5.4 European Chemicals Agency (ECHA)

The Commission proposal for a Regulation concerning batteries and waste batteries[18] proposed to assign new tasks to the European Chemicals Agency – Environmental directives and international conventions (ECHA), which was expected to require an amount of EUR 602 000 in 2023, offset from the LIFE programme. In accordance with Article 49 of the Financial Regulation, this amount was entered into the reserve (the 'provisions' title). However, following the circulation of a revised LFS, the corresponding financial impact is postponed to 2024. Therefore, the Commission proposes to return the 2023 allocation to the LIFE programme as follows:

EUR

Budget line	Name	Commitment appropriations	Payment appropriations
Section III – Commission			
30 02 02	Differentiated appropriations (Reserve for budget article 09 10 01)	- 602 000	- 602 000
09 02 02	Circular economy and quality of life	602 000	602 000
Total		**0**	**0**

6. EXECUTIVE AGENCIES

6.1 Health and Digital Executive Agency (HaDEA)

The establishment plan of the Health and Digital Executive Agency (HaDEA) needs to be amended to accommodate a change of staff structure in the agency. Hence a budgetary neutral upgrade of one AST post into one AD post is requested, with no impact on the administrative expenditure of the agency for 2023.

The updated establishment plan is set out in the budgetary annex.

7. EUROPEAN DATA PROTECTION SUPERVISOR (EDPS)

The role of the EDPS in the application of the General Data Protection Regulation[19] requires a reinforcement of its budget by EUR 300 000, in order to finance legal fees following an increase of litigation cases.

As national Data Protection Authorities (DPA) are developing their enforcement activities, more disputes require intervention by the European Data Protection Board (EPDB), a unique responsibility in the EU digital regulatory governance landscape. The EDPB binding decisions play a key role in ensuring the correct and consistent application of the GDPR by the national Supervisory Authorities.

[18] COM(2020) 798, 10.12.2020.
[19] OJ L 119, 4.5.2016.

Binding decisions address large-scale cross-border matters, and generally address complex subject matters in relation to processing operations performed by major players. They are therefore challenged before the General Court. Actions by the controller targeted by the investigation are considered inadmissible following the General Court's order of 7 December 2022 in Case T-709/21 *WhatsApp v EDPB*. However, that order is currently under appeal, which means that the EDPB's relief from that stream of litigation is not yet final and will depend on whether the Court of Justice will confirm the General Court's order.

More actions will be launched shortly and by March 2023, the EDPB will have to deal with nine litigation cases in parallel. EDPB submissions for proceedings require assistance by a law firm as they generally address new and/or complex legal questions on the interpretation and application of EU law and of the GDPR requiring a part of the litigation work. The total level of appropriations needed for legal support in 2023 is estimated at EUR 600 000. After a thorough assessment of the room for internal redeployment within Title 3 of the EDPS budget, EUR 150 000 can be redeployed from other budget lines. Therefore, and also considering the initial level of appropriations of EUR 150 000 available on the corresponding budget line, it is proposed to increase the level of appropriations for this purpose by EUR 300 000.

EUR

Budget line	**Name**	**Commitment appropriations**	**Payment appropriations**
Section IX – European Data Protection Supervisor			
3 0 4 5	External consultancy and studies	300 000	300 000
Total		**300 000**	**300 000**

8. FINANCING

Overall, the net impact of DAB 1 on expenditure amounts to an increase of EUR 52,6 million in commitment appropriations. No additional payment appropriations are requested.

9. SUMMARY TABLE BY MFF HEADING

In EUR

		Budget 2023		Draft Amending Budget 1/2023		Budget 2023 (incl. DAB 1/2023)	
		CA	**PA**	**CA**	**PA**	**CA**	**PA**
1.	**Single Market, Innovation and Digital**	**21 548 391 859**	**20 901 427 344**	**46 664 730**	**-3 335 270**	**21 595 056 589**	**20 898 092 074**
	Of which under Flexibility Instrument						
	Ceiling	*21 727 000 000*				*21 727 000 000*	
	Margin	*178 608 141*		*-46 664 730*		*131 943 411*	
2.	**Cohesion, Resilience and Values**	**70 586 704 063**	**58 058 661 399**			**70 586 704 063**	**58 058 661 399**
	Of which under Flexibility Instrument	*182 220 073*				*182 220 073*	
	Of which under Single Margin Instrument 11(1)(a)	*280 000 000*				*280 000 000*	
	Ceiling	*70 137 000 000*				*70 137 000 000*	
	Margin	*12 516 010*				*12 516 010*	
2a.	Economic, social and territorial cohesion	62 926 483 990	50 874 959 229			62 926 483 990	50 874 959 229
	Of which under Flexibility Instrument						
	Ceiling	*62 939 000 000*				*62 939 000 000*	
	Margin	*12 516 010*				*12 516 010*	
2b.	Resilience and values	7 660 220 073	7 183 702 170			7 660 220 073	7 183 702 170
	Of which under Flexibility Instrument	*182 220 073*				*182 220 073*	
	Of which under Single Margin Instrument 11(1)(a)	*280 000 000*				*280 000 000*	
	Ceiling	*7 198 000 000*				*7 198 000 000*	
	Margin						
3.	**Natural Resources and Environment**	**57 259 258 225**	**57 455 744 586**	**4 150 000**	**1 565 679**	**57 263 408 225**	**57 457 310 265**
	Of which under Flexibility Instrument						
	Ceiling	*57 295 000 000*				*57 295 000 000*	
	Margin	*35 741 775*		*-4 150 000*		*31 591 775*	
	Of which: Market related expenditure and direct payments	**40 692 211**	**40 698 181 356**			**40 692 211**	**40 698 181 356**
	EAGF sub-ceiling	*41 518 000 000*				*41 518 000 000*	
	Rounding difference excluded for calculating the sub-margin	*800 000*				*800 000*	
	Net transfers between EAGF and EAFRD	*-825 800 000*				*-825 800 000*	
	Net balance available for EAGF expenditure (sub-ceiling corrected by transfers between EAGF and EAFRD)	*40 693 000 000*				*40 693 000 000*	
	EAGF sub-margin	*789 000*				*789 000*	
4.	**Migration and Border Management**	**3 727 311 518**	**3 038 380 252**			**3 727 311 518**	**3 038 380 252**
	Of which under Flexibility Instrument						
	Ceiling	*3 814 000 000*				*3 814 000 000*	
	Margin	*86 688 482*				*86 688 482*	
5.	**Security and Defence**	**2 116 636 829**	**1 208 374 612**			**2 116 636 829**	**1 208 374 612**
	Of which under Flexibility Instrument	*170 636 829*				*170 636 829*	
	Ceiling	*1 946 000 000*				*1 946 000 000*	
	Margin						
6.	**Neighbourhood and the World**	**17 211 879 478**	**13 994 937 845**			**17 211 879 478**	**13 994 937 845**
	Of which under Flexibility	*882 879 478*				*882 879 478*	

Instrument						
Ceiling	*16 329 000 000*				*16 329 000 000*	
Margin						
7. European Public Administration	**11 311 349 927**	**11 311 349 927**	**1 769 591**	**1 769 591**	**11 313 119 518**	**11 313 119 518**
Of which under Flexibility Instrument						
Ceiling	*11 419 000 000*				*11 419 000 000*	
Margin	*107 650 073*		*-1 769 591*		*105 880 482*	
of which: Administrative expenditure of the institutions	**8 743 830 451**	**8 743 830 451**	**1 769 591**	**1 769 591**	**8 745 600 042**	**8 745 600 042**
Sub-ceiling	*8 772 000 000*				*8 772 000 000*	
Sub-margin	*28 169 549*		*-1 769 591*		*26 399 958*	
Appropriations for headings	**183 761 531 899**	**165 968 875 965**	**52 584 321**	**0**	**183 814 116 220**	**165 968 875 965**
Ceiling	***182 667 000 000***	***168 575 000 000***			***182 667 000 000***	***168 575 000 000***
Of which under Flexibility Instrument	***1 235 736 380***	***948 114 733***			***1 235 736 380***	***948 114 733***
Of which under Single Margin Instrument 11(1)(a)	***280 000 000***				***280 000 000***	
Margin	***421 204 481***	***3 554 238 768***	***-52 584 321***	***0***	***368 620 160***	***3 554 238 768***
Thematic special instruments	**2 855 153 029**	**2 679 794 000**			**2 855 153 029**	**2 679 794 000**
Total appropriations	**186 616 684 928**	**168 648 669 965**	**52 584 321**	**0**	**186 669 269 249**	**168 648 669 965**