fresh start project

Chapter 2

Regional Development Policy

The summary

- For many years the EU has run its own regional policy across all Member States. All EU regions in every Member State are given money under this policy, from the EU budget.

- This regional policy is implemented primarily through the 'Structural Funds' – the European Regional Development Fund (ERDF) and the European Social Fund (ESF).

- Over the period 2007-2013, provision for EU spending on the Structural Funds amounts to around €280 billion – almost 30% of the total EU budget.

- It is estimated that the UK will be making a *net* contribution to the Structural Funds (and to a much smaller EU 'Cohesion Fund' that only gives money to the poorer Member States) of around £21 billion over 2007-2013. This is the UK's contribution after the money it receives from the Structural Funds is taken into account.

- The Structural Funds have serious flaws. These include:

  - Allocation of special support is based on EU regions that are too large – missing pockets of relative poverty and high unemployment.

  - Planning of spending is often based on EU regions that do not fit local economic and political realities.

  - They have a top-down structure; all spending plans require the approval of the European Commission and should comply with EU guidelines. This can frustrate local innovation.

  - The EU will only provide some of the money for Structural Fund projects, with the remainder having to be found in the Member State in question. This can divert money from better-tailored national and local projects so as to unlock cash from the EU.

  - There are no rigorous performance criteria linking disbursement of funds to clear results. Indeed, think-tank Open Europe found no conclusive evidence that the Structural Funds have had a positive overall impact on growth, jobs and regional convergence in the EU.

  - There are excessively bureaucratic rules on how the Funds must be administered.

  - For wealthier Member States especially, the Funds irrationally recycle large amounts of money, via Brussels, not only within the same country, but also within the same *regions.*

- Negotiations among Member States and the EU institutions are now taking place over the shape and size of the Structural Funds for the period 2014-2020. New EU legislation on the Funds will be required:

  - The European Commission's proposals would retain most of the current shortcomings of the Structural Funds, and in some cases would exacerbate them. In particular, the Funds would continue to spend money in all Member States. This would continue the large-scale recycling of money from richer Member States to Brussels and back again.

The options for change

→ Negotiate significant reform of the Structural Funds, while accepting their continued coverage of richer Member States.

Reforms could include: limiting the size of the Funds and concentrating more of their resources on the poorer Member States; reducing top-down control of spending plans; and linking disbursement of money to the achievement of rigorous performance targets.

It should be possible to find broad support for this at EU level, though much would depend on the detail. It would mean that EU regional spending, based on EU regions and overseen by the European Commission, would continue to exist in the UK.

→ Negotiate the repatriation of regional spending in richer Member States, focusing the Structural Funds solely on the poorer EU countries, which would reduce the total EU budget by around 15% (based on figures for the 2007-2013 period).

As richer Member States are capable of funding their own regional policy, this should be determined at national rather than EU level in these countries, bringing decision-making closer to the people it affects and stopping needless recycling of money.

Open Europe estimates that if this approach had been followed over 2007-2013, all but 5 Member States would have seen a net saving ie. a saving after taking into account any removal of Structural Fund receipts. The UK would have made a net saving of up to £4.2 billion over the period. France and Germany would also have derived significant net savings. Spain, Italy and Greece would have seen significant net losses.

The most likely way of achieving – and cementing – such reform under the EU treaties may be to win round those Member States that would lose out, by offering them a strictly time-limited transitional fund.

→ Negotiate to abolish the Structural (and Cohesion) Funds, taking development aid to poorer EU countries out of the EU's hands.

This would require amendment of the EU treaties, which would need the approval of all Member States. Some poorer EU countries would probably be fiercely opposed, though the UK could offer bilateral development aid to them instead of trying to support them through the EU budget.

→ Refuse to pay the relevant contributions to the EU budget until adequate reform of the Structural Funds is achieved, should initial attempts at change fail.

This would be a breach of the UK's EU treaty obligations, in international law. Other Member States might take countermeasures under international law. However, this action might help force a meaningful negotiation if other Member States had previously refused to take the UK seriously.

The introduction

Particularly since the late 1980s, the EU has run its own regional policy that extends across all EU Member States. This policy is implemented primarily through what are called the ‘Structural Funds’ – the European Regional Development Fund (ERDF) and the European Social Fund (ESF).[28]

The existence and very broad objectives of the Structural Funds are provided for in the EU treaties, which say:

- “The European Regional Development Fund is intended to help to redress the main regional imbalances in the Union [EU] through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions.”[29]

- The European Social Fund “shall aim to render the employment of workers easier and to increase their geographical and occupational mobility within the Union, and to facilitate their adaptation to industrial changes and to changes in production systems, in particular through vocational training and retraining.”[30]

Since 1994, the EU has also had the Cohesion Fund (CF). The EU treaties say this Fund “shall provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.”[31] In fact, the Cohesion Fund has always been focused on Member States who have a per capita economic size below 90% of the average for EU countries. It is therefore not based upon regions, but the position of Member States as a unit. The UK has never qualified for support from the CF.

The EU treaties then allow for the adoption of EU legislation that elaborates the tasks, priorities and organisation of the Structural Funds and Cohesion Fund.

The Structural and Cohesion Funds are spent as part of the annual EU budget (which the UK cannot veto under EU procedures). However, the annual EU budget must respect the ceilings on expenditure laid down in the EU’s ‘multiannual financial framework’ (MFF). This framework sets ceilings on EU spending in broad policy areas for several years ahead (so far, it has always covered seven years at a time). The MFF is adopted by unanimity among Member States.

The current MFF runs 2007-2013 inclusive, and sets the limit on financial provision for the Structural and Cohesion Funds for that period. This amounts to almost €350 billion – around 35% of the total EU budget.[32]

---

[28] : Article 174 TFEU also identifies what is now the European Agricultural Fund for Rural Development (EAFRD) as one of the Structural Funds. However, EU legislation on the EAFRD does not class it as a Structural Fund – it is the so-called ‘Pillar 2’ of the Common Agricultural Policy (CAP). The CAP is covered by another chapter in this Green Paper.
[29] : Article 176 of the Treaty on the Functioning of the European Union (TFEU, one of the EU treaties).
[30] : Article 162 TFEU.
[31] : Article 177 TFEU.
[32] : http://ec.europa.eu/budget/figures/fin_fwk0713/fwk0713_en.cfm#cf07_13.

The detail

Given their inherent connection with the MFF, the EU legislation currently governing the Structural and Cohesion Funds[33] is also written to cover the period 2007-2013.

This legislation breaks down the Funds' resources on an EU-wide basis:

- 81.5% of the circa €350 billion (around €284 billion) goes towards the 'convergence objective'. This objective is defined as "speeding up the convergence [with the other Member States and regions of the EU] of the least-developed Member States and regions". Within this, around €70 billion is earmarked for the Cohesion Fund. The convergence objective is financed by both of the Structural Funds and the Cohesion Fund.

- 16% (around €56 billion) goes towards the 'regional competitiveness and employment objective'. This will, "outside the least-developed regions, be aimed at strengthening regions' competitiveness and attractiveness as well as employment". This objective is financed by both of the Structural Funds, but not the Cohesion Fund.

- 2.5% (around €8.7 billion) goes towards the 'European territorial cooperation objective'. This is aimed primarily at "strengthening cross-border cooperation through joint local and regional initiatives".[34] This objective is funded only by the European Regional Development Fund. Given the comparatively small amount of money dedicated to this objective, this chapter will focus on the other two objectives described above.

The Member States regarded as 'least developed' for the purposes of the convergence objective are those eligible for finance from the Cohesion Fund. These are Member States with a per capita Gross National Income (GNI) that is less than 90% of the average for the 'EU-25' (all EU countries apart from Bulgaria and Romania).[35]

The regions regarded as 'least developed' are, in the main, those with a Gross Domestic Product (GDP) less than 75% of the average in the EU-25.

All regions in the EU that are not eligible for money under the convergence objective are eligible for funding under the regional competitiveness and employment objective. This means that all regions in the richer EU countries receive some money from the Structural Funds.

In the UK, there are two EU regions that currently qualify for convergence objective money on the grounds that their GDP per capita is less than 75% of the EU-25 average – 'West Wales and The Valleys' and 'Cornwall and Isles of Scilly'. The remainder of EU regions in the UK, with one exception, receive money under the regional competitiveness and employment objective.[36]

---

[33] : Council Regulation 1083/2006; Regulation 1080/2006; Regulation 1081/2006; Regulation 1082/2006; Council Regulation 1084/2006.

[34] : This mainly involves EU regions on either side of national borders within the EU (including maritime borders, where, "as a general rule", the regions are separated by a maximum of 150km of sea).

[35] : The Member States that fall into this category are the 12 countries that have joined the EU since 2004, plus Greece and Portugal. *In addition*, Spain is given access to the CF, on the basis that it has a GNI per capita less than 90% of the average of the 15 countries that were the EU's members before EU enlargement into Central and Eastern Europe in 2004.

[36] : The exception is the 'Highlands and Islands' region in Scotland. This receives money under the convergence objective, on the basis that it has a GDP below 75% of the average of the 15 countries that made up the EU before EU enlargement in 2004.

The EU's 'NUTS' regions

EU legislation[37] divides each Member State up into certain regions under the so-called 'NUTS' system.[38] This is primarily for the purpose of gathering and analysing statistics, but the Structural Funds regime also draws heavily on NUTS regions. There are three levels of NUTS regions layered on top of each other, with the largest (in terms of population) being NUTS 1 regions, decreasing to NUTS 2, and then the smallest NUTS 3.[39]

The EU legislation governing the Structural Funds provides that convergence objective money from these Funds is only allocated to NUTS 2 regions. 'West Wales and The Valleys'[40] and 'Cornwall and Isles of Scilly'[41] are both NUTS 2 regions.

It seems that money under the regional competitiveness and employment objective is not tied so closely to particular geographical areas – but a Member State's allocation is still determined with reference to NUTS regions.[42]

Moreover, Structural Fund money is only actually disbursed through 'operational programmes'. These are documents drawn up in the Member State in question, and which set out priorities for action over the period 2007-2013 and how they will be financed by the relevant Structural Fund (there must be separate programmes for the ESF and ERDF). The operational programmes also set out the national authorities that will manage programme delivery and select projects for funding.

Under EU rules, operational programmes for regions receiving ERDF money under the regional competitiveness objective must be drawn up at the level of NUTS 1 or NUTS 2 regions, unless the European Commission agrees otherwise.

There is no clear restriction on the geographical area that must be covered by ESF operational programmes under the regional competitiveness objective.

Operational programmes for both the ERDF and ESF under the convergence objective must at least cover the eligible NUTS 2 regions i.e. they cannot cut across those regions.

Operational programmes in the UK

Given the period involved, the UK's current operational programmes were first drawn up under the previous Labour Government.

Regional development, including the delivery of the Structural Funds, is also a devolved matter in Scotland, Wales and Northern Ireland.

---

[37] : Regulation 1059/2003.

[38] : 'NUTS' is a French acronym for 'Nomenclature of territorial units for statistics'.

[39] : In the UK, Scotland, Wales and Northern Ireland are each a NUTS 1 region. England is divided into nine NUTS 1 regions, which correspond to the areas that were covered by the now-defunct Government Offices for the Regions: North East, North West, Yorkshire and The Humber, East Midlands, West Midlands, East of England, London, South East and South West. NUTS 2 regions typically consist of groups of county councils/unitary local authorities. NUTS 3 regions usually cover a single county council/unitary local authority or a group of two or three unitary authorities.

[40] : Comprising the unitary local authorities of the Isle of Anglesey, Gwynedd, Conwy, Denbighshire, Carmarthenshire, Ceredigion, Pembrokeshire, Merthyr Tydfil, Rhondda Cynon Taff, Blaenau Gwent, Caerphilly, Torfaen, Swansea, Bridgend and Neath Port Talbot.

[41] : Comprising the unitary local authorities of Cornwall and the Isles of Scilly.

[42] : There is an exception for a couple of regions in the UK, 'Merseyside' and 'South Yorkshire', which qualify for particular transitional funding under the regional competitiveness objective, which is only allocated to specific NUTS 2 regions (of which they are cases).

In Scotland, there are ERDF and ESF programmes for the NUTS 2 'Highlands and Islands' region, which under the EU legislation has ring-fenced funding under the convergence objective. There is then an ERDF and an ESF programme for an area termed 'Lowlands and Uplands Scotland' – which covers the three other NUTS 2 regions in Scotland, which receive money under the regional competitiveness objective.

In Wales, there are ERDF and ESF programmes for the NUTS 2 region 'West Wales and The Valleys', which gets dedicated funding under the convergence objective. There is then an ERDF and an ESF programme for the other NUTS 2 region covering the rest of Wales, 'East Wales', which receives money under the regional competitiveness objective.

Northern Ireland is classed as both a NUTS 1 and NUTS 2 region, and has two operational programmes, one for the ERDF and one for the ESF.

In England, there is a single operational programme for the ESF. This includes the ring-fenced allocations for 'Cornwall and Isles of Scilly' under the convergence objective and for 'Merseyside' and 'South Yorkshire' under the regional competitiveness objective. It also includes allocations determined by the UK Government for the nine NUTS 1 regions of England (excluding those areas just mentioned with EU-determined allocations).

For the ERDF, there are ten operational programmes in England – one each for the nine NUTS 1 regions, while 'Cornwall and Isles of Scilly' has its own, separate from the rest of the South West. 'Merseyside' and 'South Yorkshire' receive their ring-fenced allocations within the ERDF programmes for the North West and Yorkshire and The Humber respectively.

All in all, the UK is receiving around €10.6 billion (about £8.7 billion) of EU Structural Funds through its operational programmes, over the period 2007-2013.[43]

<u>Shortcomings of the Structural Funds</u>

Very ineffective EU-level redistribution

Under the EU's principle of subsidiarity, the EU "shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union [EU] level."[44]

Clearly, any redistribution of resources *within* a Member State could easily be done by that Member State, without EU involvement. This would allow the redistribution to take place at a lower level and would be consistent with the principle of subsidiarity.

However, with the Structural Funds, and especially the ERDF and areas receiving special funding under the ESF, Member States pay into the EU's coffers, only to receive money back for particular regions in their territory, with EU rules attached.

This is particularly irrational in the case of the wealthier Member States, who should be able to afford their own regional policy without external assistance.

Open Europe has estimated that the UK will be making a *net* contribution to the Structural and Cohesion Funds over 2007-2013 of €25.3 billion (almost £21 billion).[45]

---

[43] : European Commission, *European Cohesion Policy in the United Kingdom,* 2009, p.2; Open Europe, *Off target: The case for bringing regional policy back home*, January 2012, p.9.
[44] : Article 5(3) of the Treaty on European Union (TEU, one of the EU treaties).
[45] : Open Europe, *op. cit.*, p.9.

They also calculate that all the ‘EU-15’ (the 15 Member States before the EU’s enlargements from 2004) are net contributors to these Funds, apart from Spain, Portugal and Greece. All the EU Member States that have joined the organisation since 2004 are net recipients.[46]

Focusing in on the Structural Funds alone, Open Europe calculate that not only do these entail a huge amount of recycling of money, via Brussels, within the same country, but also within the same *region*.

For the UK, while 70% of its Structural Fund flows go to other countries, 25% are taken from, and then given back to, the *same region*. Only 5% are redistributed across regions within the UK.[47]

Poorly targeted by location within countries

The EU’s method of allocating the Structural Funds is based on regions that are simply too large. As described above, eligibility for special support from the Funds is only calculated with reference to NUTS 2 regions. This misses pockets of relative poverty and high unemployment, the condition of which can be masked when they are viewed as part of larger regions. The larger the regions, the worse this effect.

For example, Tower Hamlets in east London has high relative poverty, but it sits within the NUTS 2 region of ‘Inner London’, which also includes Kensington and Chelsea and the City of London. Hence, ‘Inner London’ does not qualify for any special Structural Fund status.

At the same time, the Structural Funds’ allocation of significant amounts of scarce resources to comparatively rich areas seems irrational, assuming the goal is convergence between regions. Such spending only serves to reinforce disparities. Moreover, it runs the risk of crowding out private investment that would have happened anyway (and probably more efficiently), given that richer regions tend to find it easier to attract such investment.[48]

Top-down and not tailored to local needs

As well as misallocating resources, relying on EU-standardised NUTS regions can hinder bottom-up, local planning of economic development, led by those who know the needs of their area best. This is because NUTS regions, and plans based upon them, may not correspond to local economic and political realities.

In England, the Coalition Government has abolished the Government Offices for the Regions, and is scrapping the Regional Development Agencies that covered the same areas, largely on the grounds that these were too remote from local communities. Instead, it has encouraged the formation of Local Enterprise Partnerships (LEPs) between local authorities and local businesses, to lead economic development in their respective areas. LEPs bring together certain local authority areas; the great majority are far smaller than the Government Office NUTS 1 regions, and many are smaller than NUTS 2 regions. There are LEPs that straddle NUTS region boundaries; the Heart of the South West LEP takes in areas from two NUTS 2 regions, while the South East Midlands and Sheffield City Region LEPs also cross NUTS 1 region boundaries.[49]

---

[46] : Open Europe, *op. cit.*, p.41.
[47] : *Ibid*, p.14.
[48] : *Ibid*, p.17.
[49] : http://www.bis.gov.uk/policies/economic-development/leps/statistics.

As described above, however, in England there is a single ERDF operational programme for each NUTS 1 region.[50] These programmes set out broad priorities for the use of ERDF money in their region, and allocate finance to each priority. The priorities do not stipulate in detail the precise activities that will be funded, allowing some flexibility over this. However, all ERDF activity in the relevant NUTS 1 region must accord with that region's programme. Given that the ERDF has a particularly clear geographical focus, requiring it to be programmed on the basis of regions that are artificially large or otherwise incongruous with facts on the ground seems highly undesirable.

Another important aspect of the Structural Funds is that they will not provide all the finance for operational programmes. In most areas of the UK, EU legislation limits the Structural Fund contribution to 50% of programme costs, with the UK having to find the remaining finance, from either public or private sources. This is called 'co-financing'.

In general, the co-financing rule can divert money away from better-tailored national and local projects, as if finance is not found for Structural Fund projects the EU money cannot be accessed at all.

Furthermore, the co-financing requirement can make the Structural Funds economically pro-cyclical in countries facing financial difficulties ie. the less money of its own a country has to spend, the less it can get out of the EU Funds.[51]

Another indicator of the top-down nature of the EU's regional policy is the fact that, under the EU Structural Funds legislation, operational programmes are supposed to be compatible with "Community strategic guidelines on cohesion", drawn up at EU level and adopted by the Council by qualified majority voting (QMV).

Furthermore, all operational programmes must be approved by the European Commission. Indeed, any alterations to the programmes to reflect changed priorities or practical considerations must also receive the Commission's approval.

In addition, there are more specific restrictions and requirements imposed by EU legislation on the use of Structural Fund money. For example, there are limits on the proportion of ERDF money that can be spent on land purchases in usual circumstances, and on energy efficiency measures in existing housing stock. This could restrict the best use of money for local needs.

Lack of focus

Overall, the Structural Funds lack focus on achieving their aims of boosting economic growth and employment.

The 'Community strategic guidelines for cohesion' include the following as one of the three overarching objectives for the Structural and Cohesion Funds: "improving the attractiveness of Member States, regions and cities by improving accessibility, ensuring adequate quality and level of services, and preserving the environment". They then go on to describe a wide range of environmental objectives that the Funds can be used for, including investing in infrastructure to meet the requirements of EU environmental legislation "in the fields of water, waste, air, nature and species protection and bio-diversity."

---

[50] : With the exception of Cornwall and Isles of Scilly, which has its own operational programme.
[51] : Open Europe, *op. cit.*, p.18.

The Structural Funds also lack rigorous performance criteria, whereby disbursement of the Funds is linked to achievement of clear results in terms of economic development and increased employment.[52] As the European Commission has itself said, "...implementation has focused more on successfully spending and managing funds and complying with control rules than on how effective interventions are."[53]

Similarly, the Funds do not contain robust allocation criteria linked to a recipient area's so-called 'absorption capacity' ie. the amount of money that can actually be put to productive use.[54] Particularly in the poorer Member States, absorption capacity is often held back by administrative weakness, in that public authorities do not have the organisational strength to administer the Funds. This can lead to significant disparities between the amount budgeted for the Funds at EU level and the actual payments made.[55]

Think-tank Open Europe conducted an extensive review of literature that has examined whether or not the Structural Funds have had a positive overall impact on growth, jobs and regional convergence in the EU. They found no conclusive evidence that the Funds have had such an impact. It seems quite clear that there are *individual* examples of the Funds leading to improvements. The example usually cited is that of the Republic of Ireland, which received a very large amount of money from the EU Structural and Cohesion Funds in the 1990s. Between 1987 and 2000, the country's Gross National Product expanded by 140%, and between 1989 and 1999 its GDP rose from 72% to 111% of the EU average.[56]

Even in the Republic of Ireland, though, it is not clear how much of this economic turnaround was down to the Structural and Cohesion Funds. One study has concluded that the EU's single market and national Irish policies also played a significant role, while a World Bank paper argued that the contribution of the Structural and Cohesion Funds was limited. Unsurprisingly, it also seems that the use the Republic of Ireland put the Funds to was important – it directed quite a lot of money into developing its human capital, rather than 'hard' infrastructure, and it used the Funds to complement national structural reforms that liberalised the economy.[57]

The European Commission has itself said: "Past experience suggests the funds in some instances have not delivered expected outcomes due to unsound macroeconomic framework conditions."[58] The record of the Southern Mediterranean Member States, which also received a lot of finance from the Structural and Cohesion Funds in the 1990s, is much more mixed than that of the Republic of Ireland. It is still too early for a robust analysis of whether the Structural and Cohesion Funds have contributed to economic improvement in the Member States that have joined the EU since 2004.[59]

---

52 : Open Europe, *op. cit.*, p.19.
53 : European Commission, *Impact assessment accompanying the document: Proposal for a Regulation of the European Parliament and of the Council 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 covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006*, October 2011, p.14.
54 : Open Europe, *op. cit.*, p.20.
55 : *Ibid*, p.9.
56 : *Ibid*, p.10.
57 : *Ibid*, p.11.
58 : European Commission, *Impact assessment on Proposal for a Regulation 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 covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund,* p.15.
59 : Open Europe, *op. cit.*, p.11.

Excessive bureaucracy

The European Commission has admitted: “Both ex-post evaluations and feedback from stakeholders reveal that day-to-day management of cohesion policy [Structural and Cohesion Fund] programmes is perceived to be overly-complex...evidence indicates that the heaviest costs are linked to the processes of applying for funding, everyday reporting by beneficiaries [those receiving the money] and storage of documents.”[60]

An evaluation for the Commission showed that administration costs for national authorities dealing with the ERDF and Cohesion Fund was between 3% and 4% of the total money allocated.[61]

One example of unnecessary rules is the detailed and intrusive requirements regarding ‘information and publicity’, in the EU legislation governing the Structural Funds. Among other things, these require each managing authority to hold at least one “major information activity” a year, “presenting the achievements of the operational programme(s)” for which it is responsible. These authorities are also required to fly the EU flag for a week starting 9 May each year (9 May being designated ‘Europe Day’). Those receiving Structural Fund money for many types of infrastructure or construction operations are obliged to erect a billboard displaying the EU emblem while the work is going on, and after it is completed to put up a “permanent explanatory plaque...of significant size” including the EU symbol.[62]

The Commission’s proposals for 2014-2020

As noted, the current EU multiannual financial framework (MFF) and Structural and Cohesion Fund legislation covers the period 2007-2013.

Under the EU treaties, the European Commission makes the proposal for a new MFF and fresh legislation on the Structural and Cohesion Funds. The Commission submitted such proposals in 2011, aimed at covering the period 2014-2020. EU negotiations have therefore already started on the shape and size of the Structural and Cohesion Funds from 2014.

Looking at the Commission’s proposals, it seems most of the current shortcomings of the Structural Funds would remain, and in some cases could be exacerbated:

- **Unnecessary EU redistribution within richer Member States:** The Structural Funds would continue to disperse money to all regions in the EU, including in the richer Member States. This will continue the system whereby much money from richer countries, such as the UK, will be sent out to Brussels only to be recycled back again.

  To fund this, the Commission has proposed a Structural Fund budget of just over €255 billion (around £213 billion)[63], for the period 2014-2020. This is in 2011 prices, and would be uprated by 2% a year. Using Open Europe’s estimate of the UK contribution to the Structural and Cohesion Funds over 2007-2013, the UK’s gross contribution to this €255 billion would be around €26 billion (£22 billion). The UK would receive some Structural Fund money back, but would almost certainly be a major net contributor, as in the current

[60] : European Commission, *Impact assessment on Proposal for a Regulation 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 covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund,* p.17.
[61] : *Ibid.*
[62] : Cf. Commission Regulation 1828/2006.
[63] : Not including money for the successor European territorial co-operation objective (which would remain a small fraction of total resources).

spending period.

The Commission has, in addition, proposed almost €69 billion (around £57 billion) for the Cohesion Fund over 2014-2020. The CF would continue to be aimed solely at poorer Member States, which had a GNI per capita that was below 90% of the average for all 27 EU countries.

The total budget the Commission has proposed for the Structural and Cohesion Funds over 2014-2020, in 2011 prices, is €336 billion. If the UK made the same proportional net contribution that Open Europe estimates it will do over 2007-2013, the UK's *net* contribution to this figure over 2014-2020 would be around €24 billion (£20 billion). This does not take account of the annual uprating of the €336 billion figure that would occur.

In response, the UK Government has said "the budget in this area should fall significantly".[64]

- **Allocation based on regions that are too large:** All allocations would be based on NUTS 2 regions – representing no improvement on the current situation.

- **Operational programmes based on incongruous EU regions:** Spending would still take place through operational programmes, and these would have to be at least at NUTS 2 level (not below) for both the ERDF and the ESF, unless the European Commission agreed otherwise. This would actually be a worse situation than at present, given there is currently no detailed stipulation regarding the geographical coverage of ESF operational programmes in better-off areas. The Commission's proposals include possibilities for organising projects across operational programmes or at a sub-programme level, but these would all have to be within the provisions of the relevant programme(s).

- **Top-down EU approach:** The Structural Funds would have to support a set of 11 "thematic objectives" set out in EU legislation. The European Commission would adopt a "Common Strategic Framework" at EU level that would set "key actions" to be supported by the Funds. There would be a list of "*ex ante* conditionalities", covering national policies ranging from transport to education, that each Member State would have to fulfil or the Commission would be entitled to withhold Structural Fund money from them. There would also be "macroeconomic conditionalities", empowering the Commission to suspend Structural Fund payments to a Member State if that country had not responded "satisfactorily" to a Commission request to amend its Structural Fund programmes, so as to help implement EU recommendations on that country's economic, employment or fiscal policies.

  All operational programmes, and any amendments to them, would still require the approval of the Commission. Indeed, programmes would have to be drafted according to a model adopted by the Commission. 'Co-financing' would also still apply, meaning national money would have to be found for projects before any EU money could be accessed. Much as now, for most regions in the UK the EU would, as a rule, provide no more than 50% of the cost of each broad priority in each operational programme.

- **Lack of focus on growth, jobs and convergence:** The 11 "thematic objectives" the Structural Funds would have to support are very wide-ranging and not entirely focused on economic development; they include "protecting the environment" and "promoting climate change adaptation, risk prevention and management". The ERDF, for instance, would continue to fund projects aimed at achieving compliance with EU environmental legislation on water and waste, as well as activities that seek to protect and develop "cultural heritage".

---

[64] : HM Treasury, *Explanatory Memorandum on European Union legislation: Proposal for a Council Regulation laying down the multiannual financial framework for the years 2014-2020 [and other documents]*, July 2011, para 56.

Some of the thematic objectives seem questionable as ends in their own right, such as "enhancing access to, and use and quality of, information and communication technologies".

- **Weak link between payments and performance:** The Commission's proposals appear to make some efforts to improve the Funds in this respect. However, they still fall short of the rigour required.

  Operational programmes would have to establish "milestones" for each of their priorities, for 2016 and 2018. Only the milestones in 2018, though, would need to include, "where appropriate", "result indicators" ie. indicators that measured actual improvements. Furthermore, while milestones would have to be "relevant", "transparent", "verifiable" and "consistent", there would be no requirement for them to be rigorous/demanding.

  In 2017 and 2019, the Commission would conduct a performance review of each Member State's operational programmes. The Commission would be empowered to suspend payments to a programme priority where there had been a failure to achieve that priority's milestones. Furthermore, 5% of resources allocated to each Fund and Member State would be put into a "performance reserve". This would only be distributed to operational programmes that were found to have attained their milestones in the 2019 review. The Commission would also be able to claw back money after 2020 if it found a "serious failure" to achieve programme targets.

  As the UK Government has commented on the Commission's proposed 'performance reserve': "...the reserve will be confirmed only after review in 2019, and, while extra money will rightly not be given to programmes that have performed badly, it is difficult to see how it can be redistributed at such a late stage and still be spent effectively on projects, even in well-run programmes."[65] There is also the fact, of course, that only 5% of the Funds would be involved in this performance reserve.

  The European Court of Auditors (ECA)[66] has said of the main piece of Structural Fund legislation proposed by the Commission: "The method for the performance review...shows that this review will still mainly focus on financial implementation (financial indicators), on outputs and only in a limited way on results (outcomes, impacts)...The added-value of a performance reserve will be considerably reduced if very low and easy to achieve targets will be set or if performance disbursements will in the end be mainly based on absorption grounds as the Court noted for the period 2000-06 [when a similar performance reserve existed for the Structural Funds, with limited success]."[67]

---

[65] : Department for Business, Innovation and Skills, *Explanatory Memorandum on a European Union document: Proposal for a Regulation of the European Parliament and of the Council 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 covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006,* November 2011, para 34.

[66] : The European Court of Auditors is an independent EU institution, the primary task of which is to audit the EU's budget. The ECA can also issue non-binding opinions on particular matters if requested by another EU institution.

[67] : European Court of Auditors, *Opinion 7/2011 on the proposal for a Regulation of the European Parliament and of the Council 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 covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006,* December 2011, para 18.

The ECA also said of the proposal more generally: "The Commission...indicates...that focus on results will be one of the major hallmarks of the next set of programmes. In practice...the proposed future...scheme falls short of this aspiration and remains fundamentally input-based."[68]

- **Little account of 'absorption capacity':** The Commission proposes that no Member State would receive a Structural and Cohesion Fund allocation equivalent to more than 2.5% of its GDP. This is intended to prevent any Member State (mainly the poorer ones) being inundated with a quantity of EU money they could not handle. However, this seems a rather crude tool for ensuring that a Member State can effectively 'absorb' the Structural and Cohesion Fund money allocated to it. It also does not tackle allocations to particular regions, which might lack administrative capacity.

  Other than this cap on allocations, the Commission's proposals include generally-worded requirements for national assessment of administrative capacity before operational programmes are adopted, with an option for the Commission to withhold funds if necessary improvements are not made. Whether this would work in practice would remain to be seen.

- **Excessive bureaucracy:** The Commission claims that its proposals would streamline administrative requirements.

  However, the Commission also admits that some of its proposals would increase the administrative burden. This includes the proposed new requirement for national governments to accredit and supervise all operational programme management and control bodies, on the basis of criteria set down by the Commission.

  The European Court of Auditors had the following to say about bureaucracy under the Commission's main proposal: "The arrangements for Cohesion spending are complex. There are six layers of rules (common provisions, general provisions, Fund-specific provisions, delegated acts, implementing acts, Commission's guidelines). National legislation will, in some cases, constitute an additional layer. The Court notes the positive efforts to reduce beneficiaries' [those who receive the money for undertaking projects] administrative burden...However, the burden for EU and national administrations remains high, and will even possibly become higher than is currently the case."[69]

  The Commission proposals retain extremely similar requirements for 'information and publicity' on the EU's involvement in Structural Fund projects as currently apply. Under the new proposals, though, operational programme managing authorities would be obliged to display the EU flag all year round.

---

[68] : European Court of Auditors, *op. cit.*, para 10.
[69] : *Ibid*, para 5.

The options for change

The colour-coding used below for possible UK action follows the categorisation for all the Fresh Start Project's Green Paper chapters. Green are those measures that can be achieved within the current EU legal framework; Amber are those measures that require negotiated EU treaty change; Red are those steps that the UK could take unilaterally that would involve breaking its treaty obligations.

Negotiate repatriation of regional policy in richer Member States

The UK could push for a major revision of the Commission's proposals for 2014-2020, which ended EU regional policy in richer Member States. The same principle that governs the Cohesion Fund could be applied to the Structural Funds – that only Member States with GNI per capita less than 90% of the EU average would be eligible for support.

The fundamental rationale for this would be that richer Member States are capable of funding their own regional policy, which should therefore be determined at national rather than EU level in these countries. This would respect the principle of subsidiarity, and facilitate localism. Any genuinely valuable *cross-border* EU regional programmes could be retained under the small-scale European territorial co-operation objective – though in fact, such programmes could probably be agreed directly between the relevant countries where desired, without involving the centralised EU process.

Indeed, it could be argued that even if the EU helps fund regional policy in the poorer Member States, those countries are still better placed to determine the nature of support for their regions. On the other hand, the countries that fund the EU will want assurance that their money is not being wasted. This will entail some central EU control of spending.

The idea of concentrating the Structural Funds on the poorer Member States was actually espoused by the previous Labour Government, in the run-up to negotiations on the 2007-2013 MFF.

A policy paper put forward by that Government said: "Regional assistance in the more prosperous Member States…would be funded domestically…Less prosperous Member States would continue to receive Community support which would, as now with the Cohesion Fund, be determined in proportion to national prosperity."[70] The previous Administration failed to achieve this reform, however.

Such reform should be possible without amendment of the EU treaty provisions on the Structural Funds.[71]

Open Europe has estimated the financial impact that limiting the Structural Funds to Member States with a GNI per capita less than 90% of the EU average would have had in the 2007-2013 spending period.[72]

---

[70] : HM Treasury, Department for Trade and Industry and Office of the Deputy Prime Minister, *A modern regional policy for the United Kingdom*, March 2003, para 4.13.

[71] : When the Commission considered, as part of its impact assessment, the idea of limiting Structural Fund coverage to the poorer Member States, it did not raise the treaties as a barrier to this approach: European Commission, *Impact assessment on Proposal for a Regulation 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 covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund,* p.53.

All but five Member States would have seen a net saving ie. a saving after taking into account any removal of Structural Fund receipts. The UK would have reaped a net saving of more than €5 billion (almost £4.2 billion) over the period.[73] France and Germany would also have derived a significant net saving. All the Member States that have joined the EU since 2004, apart from Cyprus and Slovenia (which have a GNI per capita above 90% of the EU average), would have enjoyed a net saving.[74]

This saving for most Member States comes mainly from the fact that they would not have been paying into the Structural Funds for EU spending in richer Member States. Overall, the EU budget for the Structural and Cohesion Funds would have been reduced by around 45%, being focused solely on the EU's poorer countries.[75] This would have reduced the total EU budget by roughly 15%.

According to Open Europe's estimates, Spain, Italy and Greece (all with GNI per capita above 90% of the EU average) would have seen significant net losses from this approach – Spain €21 billion, Greece €16.9 billion and Italy €7.9 billion over the period.[76]

Of course, these figures can only be illustrative of what the financial impact would be of limiting the Structural Funds to the poorer Member States over 2014-2020 – this would depend, among other things, on the total budget and new GNI figures. However, they give a good indication of the potential benefits of such reform to the UK and most other Member States. Open Europe believe, for instance, that even if Greece, with its current economic woes, fell below the 90% threshold and qualified for EU support, the UK would still have seen a net saving over 2007-2013.[77]

With its net saving position, the UK could afford to commit at least as much money to its regional development as is given out through the Structural Funds.

Open Europe estimate that all NUTS 2 regions in the UK, with the exception of West Wales and The Valleys and Cornwall and Isles of Scilly, are net contributors to the Structural Funds under the existing 2007-2013 framework.[78] If the UK was to commit further resources to its regional policy, using the saving from repatriation of this policy area in richer Member States, Open Europe calculate that all NUTS 2 regions in the UK could see their receipts increase by almost 50%. Many would turn from net contributors to net recipients.[79] Furthermore, the money could be better tailored to the needs of local areas, given the absence of EU rules.

Of course, the precise level and nature of regional spending would have to be considered as part of national democratic decision-making, so that it was tailored to the needs and interests of the people of the UK. The need for funding stability for local areas would have to be taken into

---

[72] : Open Europe also took Spain out of its transitional provision from the Cohesion Fund, on the grounds that it has a GNI per capita above 90% of the EU average.
[73] : Though this figure would probably be affected to some extent by increased concentration of EU spending on non-agricultural market spending in Member States that have joined the EU since 2004, which is an area of spending that does not fall under the UK's budget rebate. See Open Europe, *op. cit.*, p.26 and Annex III.
[74] : Open Europe, *op. cit.*, p.22. Slovenia has a GNI per capita above 90% of the EU average but a GDP per capita below 90% of the EU mean (the only Member State where the choice of indicator affects whether or not it is above the threshold). If the threshold was based on GNI per capita, some form of special assistance might be provided to Slovenia.
[75] : Open Europe, *op. cit.*, p.41.
[76] : *Ibid*, p.22.
[77] : *Ibid*, p.25.
[78] : *Ibid*, p.16.
[79] : *Ibid*, p.27.

account as part of this.

The current Government has said of its negotiating position: “The Government believes that the key objective of European cohesion policy is to address regional disparities particularly in the poorer Member States, as these countries lack the capacity to fund their own regional policy...In the long term, the Government’s goal would be for richer Member States to finance their own regional policy, but it recognises the need for transitional arrangements to manage the change. For this financial period [2014-2020], it therefore accepts that all regions should receive funding, but with the focus of funding on poorer Member States and regions and with the burden of reductions falling on richer ones.”[80]

Under the EU treaties, the new legislation that will be required on the Structural Funds from 2014 is decided by qualified majority voting (QMV) in the Council, and must also be agreed by the European Parliament. The new multiannual financial framework (MFF) setting the Funds’ financial envelope must be agreed by unanimity in the Council, and must receive approval from the European Parliament.

This means the UK wields a veto over the next MFF. By the same token, all other Member States and the European Parliament must agree to the next framework.

If a new MFF was not adopted for the years after 2013, the ceiling for 2013 expenditure in the current MFF[81] would continue to apply, being uprated annually by 2%. This would more or less represent a real terms freeze compared to 2013.

However, the current MFF allows any of the European Parliament, the Commission or the Council to terminate the framework after 2013.[82] If this was done by, say, the Commission, it would only leave the so-called ‘Own Resources’[83] ceiling on EU expenditure, which is higher than the MFF cap proposed by the Commission for 2014-2020.

On the other hand, the new legislation on the Structural Funds can set the shape and size of those Funds from 2014. Given the large number of Member States that would appear to benefit financially if the Funds were focused on the poorer EU members, the UK could try to establish an alliance, at least constituting a qualified majority, to amend the Commission’s proposed legislation to achieve this reform. If all those Member States who would have made net savings in the 2007-2013 period supported this change, that would comprise a qualified majority under EU rules.

However, under the EU treaties, if the Council wishes to amend a Commission proposal without the Commission’s agreement it can usually only do so by acting unanimously. If the Commission dug its heels in against limiting the Structural Funds to the poorer Member States, this would give the likes of Spain and Italy a veto over such change.

Even if the Council could agree this reform through QMV, the European Parliament would also have to give its approval. It is not clear what the EP’s position would be. MEPs from those Member States that would be net losers would no doubt put up resistance. However, they

[80] : Department for Business, Innovation and Skills, *Explanatory Memorandum on a European Union document: Proposal for a Regulation of the European Parliament and of the Council 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 covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund,* para 25.
[81] : Contained in the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management.
[82] : See Point 30 of the Interinstitutional Agreement.
[83] : The Own Resources system establishes how revenue is provided to the EU to fund its expenditure.

would be a minority in the EP. On the other hand, the EP may instinctively dislike the reduction in scope of the EU's regional policy, given it has a track record of supporting EU intervention, as a supranational institution whose raison d'être depends upon the EU.

An alternative approach would be to try and win round those Member States that would lose out financially from limiting the Structural Funds to poorer EU members.

Firstly, it should be noted that Spain and Italy stand to lose quite a lot of their EU funds from 2014 even under the Commission's proposals. This is partly because eligibility for funding would be calculated with reference to the average for all EU countries, now including the relatively poor Romania and Bulgaria.

Spain would lose its current transitional funding from the Cohesion Fund, and whereas at present it has six regions eligible for money under the convergence objective, the Commission's impact assessment indicates that only one Spanish region would be in the equivalent "less developed" category from 2014.[84] In Italy, there would be four regions in the "less developed" category, compared to five currently under the convergence objective.[85]

Secondly, Spain, Italy, Greece and Cyprus all pay significant amounts (relative to their size) into the EU Structural Funds, though they also get large amounts back. They would all make a gross saving (before receipts from the Structural Funds were taken into account) if the Structural Funds were targeted purely at the poorer Member States, given the overall budget for the Funds would be much smaller and demand less revenue.

Importantly, they could tailor this money to their own needs much better than with EU strings attached. Indeed, they would probably have more incentive to spend the money wisely, given it would be their money rather than a 'gift' from the EU. Furthermore, the requirement for co-financing would not apply, so they could definitely make use of all of this money, rather than being unable to access EU funds due to a lack of national co-finance.[86]

To sweeten the proposition, some form of new transitional fund might be offered to the countries that would lose in net terms from restricting the Structural Funds to the poorer Member States. This funding would be strictly limited to the 2014-2020 period. Of course, any such funding from the EU budget would reduce the savings to the UK.

Even if these Member States were won round, the European Parliament would still have to agree to this radical alteration of the Structural Funds.

It might be argued that remoulding the Structural Funds in this way through the EU legislative process was not technically 'repatriation' of this policy area in the richer Member States. This is because the EU would retain the power, under the EU treaties, to reintroduce a regional

---

[84] : European Commission, *European Cohesion Policy in Spain*, p.1; European Commission, *Impact assessment on Proposal for a Regulation 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 covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund,* p.45.

[85] : European Commission, *European Cohesion Policy in Italy*, p.1; European Commission, *Impact assessment on Proposal for a Regulation 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 covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund,* p.45.

[86] : The net cost figures for these countries given above are based on EU *allocations* rather than actual payments; the countries concerned may not have been able to access all of those allocations anyway.

spending policy in the richer countries. This is particularly relevant if the reduction in the scope of the Structural Funds was not reflected in the new MFF – the alteration of which the UK could veto in the future. However, if agreement on limiting the Funds through the next MFF could not be obtained, it seems very doubtful that the agreement of all Member States could be gained for an EU treaty change that had the same effect.

Negotiate to limit the size of the Structural Funds budget, increase local flexibility and introduce greater rigour

As noted, the Government's current negotiating position is that it will seek a reduction in the Structural Funds budget, with the Funds focused more on the poorer Member States, though it concedes that the Funds will still cover all regions in the EU. The Government has also said that it will be looking to modify some of the more prescriptive and bureaucratic provisions in the Commission's proposals.

This approach could be maintained, with as much ambition as possible. Instead of the proposed plethora of objectives, there could be a single objective for the Funds – economic convergence. This should automatically focus more resources on the poorest areas, and could be combined with downward pressure on the overall budget.

A common EU regional policy will require common EU regions. However, allocations could be based on the smaller NUTS 3 regions rather than NUTS 2 areas, to take better account of local variations. Using NUTS 3 regions could also facilitate more bottom-up planning of spending, as these smaller areas are less likely to cut across the local economic and political situation.

The Funds also need to be far more focused on achieving results. Local areas should be required to include rigorous, outcome-based performance targets in their spending plans. Such plans would probably still need to be signed off by the Commission, as the ultimate custodian of the EU budget. Actual disbursement of EU funds could then wait until targets had been achieved. This may build in a longer delay before national authorities are reimbursed for spending. However, robust performance criteria could replace the requirement for national co-financing of projects. They could also replace the need for EU-imposed 'conditionality' across a broad range of national policies.

In addition, allocation of Structural Funds could be tied to an honest assessment of the relevant area's 'absorption capacity'. A small amount of funding might be provided to help areas in poorer Member States improve their administrative capacity, if this was clearly lacking. Excessively bureaucratic rules regarding the administration of the Funds should be removed, to improve the Funds' efficiency and manageability.

Of course, the need for many of these reforms applies equally to the Cohesion Fund. Moreover, it would apply to the Structural Funds even if they were limited solely to the poorer Member States.

While these reforms would not elicit as much opposition from those Member States that would be big net losers from limiting the Structural Funds to the poorer EU countries, in some respects they may be harder to achieve than the latter change. This is because the Structural Funds would continue to apply to richer Member States, who may be reluctant to impose rigorous performance criteria on what they regard (quite rightly, in most cases) as their money in the first place. On the other hand, given that a lot of money would be going to the poorer EU countries, the richer nations may see their interest in making sure that money was not wasted. In addition, sound performance criteria could allow the removal of the awkward co-financing requirement.

Negotiate to abolish the Structural and Cohesion Funds

The UK might feel that the EU's track record in supporting economic development through the Structural and Cohesion Funds is so unimpressive that it should have this area of responsibility taken away from it.

Simply abolishing the Structural and Cohesion Funds would deliver very large fiscal savings to the UK and other net contributors to the EU budget.

The UK might seek this reform with the intention of establishing its own bilateral development aid policy with the poorer countries of the EU.

Given that the Structural and Cohesion Funds are mandated by the EU treaties, those treaties would have to be amended to remove this policy area from the EU's competence.

Such treaty amendment would require the agreement of all EU Member States (first from their governments, then through national ratification). It would not require the agreement of the European Parliament, however.

It is highly likely that at least some of the poorer Member States would be fiercely opposed to this idea. While the UK might put forward an alternative aid policy not routed through the EU, the poorer EU members might see this as a far less certain supply of resources into the future, compared with the EU-mandated system.

Refuse to pay until adequate reform is achieved

If the UK was unable to achieve the reform it wanted through EU procedures, it could refuse to pay its contributions to the EU budget, or at least the rough amount that was demanded by the EU to help pay for the Cohesion and/or Structural Funds. Under UK law, this course of action would probably need authorisation by an Act of Parliament. To try and maintain relations with the poorer Member States, the UK might offer them bilateral aid in parallel.

This would be a breach of the UK's EU treaty obligations in international law. While, ultimately, the EU cannot enforce its treaties against the UK, under general international law the other Member States might be able to suspend obligations they owe to the UK internationally, including but not limited to EU treaty obligations.

In short, such unilateral action would not provide a sustainable long-term solution. It could, though, help force a meaningful negotiation if other Member States had previously refused to take the UK seriously. The suitability of this approach is likely to depend on the UK's priorities and its bottom line regarding its future relationship with the EU.