

STC Modification Proposal Form

CM076: STC change to reflect the terms of the UK's departure from the EU

Overview: The proposed modification aims to ensure that retained EU law will function effectively in the context of the STC following the UK-EU Trade and Cooperation Agreement and the end of the transition period. It will ensure that the STC takes into account the provisions in the relevant Statutory Instruments prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020).

Modification process & timetable



Status summary: The Proposer has raised a modification and is seeking approval from the Panel on the governance route to be taken.

This modification is expected to have a: Low impact

Minimal impact on all STC parties

Proposer's recommendation of governance route

Self-Governance modification to proceed to Code Administrator Consultation

Who can I talk to about the change?

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What is the issue?

On 24 December 2020 the UK reached an agreement with the EU on the terms of the UK's departure from the EU: the UK-EU Trade and Cooperation Agreement (TCA). This was ratified by the UK Parliament on 30 December 2020. At 11pm on 31 December 2020, the Brexit transition period ended. The UK left the EU single market and customs union and EU law ceased to apply to the UK.

Why change?

Therefore, the STC needs to be amended to ensure the provisions in the relevant Statutory Instruments prepared under the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) will function effectively in the context of the STC.

Background

The STC contains a small number of references to EU Regulations and EU entities. These were introduced as a consequence of the integration of the UK into the EU Internal Energy Market ('IEM') and more specifically in order to comply with a number of EU Regulations, which were directly applicable in UK Law.

Following the outcome of a referendum on UK membership of the EU on 23 June 2016, the UK Government notified its intention to leave the EU in March 2017 (as permitted by Article 50 of the Treaty on European Union).

The UK's departure became effective on 31 January 2020, at which point the UK entered a transition period which was in effect until IP (Implementation Period) completion day, 31 December 2020. During the transition period the UK had to comply with all EU rules and laws.

Following the ratification of the TCA and the end of the transition period, EU law that has not been retained ceased to apply to the UK. The agreement does not outline in detail the relevant arrangements that will apply regarding the STC. However, in the absence of further information we propose updating the STC to correct content that became out of date at 11pm on 31 December 2020. If further modifications are required in the future to outline additional post-Brexit arrangements, we will raise them at the appropriate time.

The approach specified in the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020) is to incorporate EU law into UK law (where possible). The UK Government has published Statutory Instruments with the aim of correcting, removing and/or amending provisions of EU Regulations as appropriate, relevant to the electricity industry, such that they reflect that the UK no longer being an EU Member State.

Additional Background to this modification: In February 2019, the ESO raised STC modification CM072 ('STC changes in the event the UK leaves the EU without an agreement') in anticipation of the possibility of the UK leaving the EU without a deal. Following the announcement of the Brexit deal, this modification was withdrawn by the ESO in January 2021 as it dealt specifically with arrangements in a 'no deal' scenario. However, the legal text for this new modification is the same as that proposed in CM072 as the contents of the TCA require no further changes to be made to the STC arrangements from January 2021.

What is the proposer's solution?

As a consequence of the deal, the STC needs to be changed so that the references appropriately reflect this change in approach. The proposed modifications will ensure that the STC is aligned with Retained EU law.

In section J (interpretation and definitions), it is proposed to update and add some definitions in relation to references to EU legislation or EU entities.

It is also proposed to add a definition on “Legally Binding Decisions of the European Commission and/or the Agency”, aligned with the modification of the licence conditions of the electricity transmission licence as outlined in [The Authority decision letter](#) of 11 February 2021. Future decisions of the Commission and the Agency will no longer have any legal effect in the UK, however decisions made prior to IP completion day are to continue to have effect.

In section B (Governance), some reformatting is proposed to reflect the new definition.

In section C (Transmission Services and Operations), it is proposed to update the reference to EU legislation.

Draft legal text

Attached separately.

What is the impact of this change?

Proposer's assessment against STC Objectives	
Relevant Objective	Identified impact
(a) efficient discharge of the obligations imposed upon transmission licensees by transmission licences and the Act	Positive Ensures the STC is up to date regarding the arrangements further to the UK's departure from the EU.
(b) development, maintenance and operation of an efficient, economical and coordinated system of electricity transmission	Neutral
(c) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the distribution of electricity	Neutral
(d) protection of the security and quality of supply and safe operation of the national electricity transmission system insofar as it relates to interactions between transmission licensees	Neutral
(e) promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC	Positive

	Ensures consistency between STC and legal requirements.
(f) facilitation of access to the national electricity transmission system for generation not yet connected to the national electricity transmission system or distribution system;	Neutral
(g) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.	Positive Provides clarity around application of Retained EU Law.

Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories

Stakeholder / consumer benefit categories	Identified impact
Improved safety and reliability of the system	Neutral
Lower bills than would otherwise be the case	Neutral
Benefits for society as a whole	Neutral
Reduced environmental damage	Neutral
Improved quality of service	Neutral

When will this change take place?

Implementation date

As soon as reasonably practicable – however, implementation shall be aligned with the CUSC and Grid Code equivalent modifications.

Date decision required by

As soon as reasonably practicable, and in alignment with the CUSC and Grid Code equivalent modifications.

Implementation approach

No systems or processes will be required to change as a result of this modification.

Proposer's justification for governance route

Governance route: Self-Governance modification to proceed to Code Administrator Consultation

Previous EU-exit related modification proposal (CM072) was approved as Self-Governance, and the legal text has not changed in this proposal. The proposed changes are not material and merely clarify the current 'business as usual' position.

Interactions

- | | | | |
|---|--|--------------------------------|-------------------------------|
| <input type="checkbox"/> Grid Code | <input type="checkbox"/> BSC | <input type="checkbox"/> CUSC | <input type="checkbox"/> SQSS |
| <input type="checkbox"/> European Network Codes | <input type="checkbox"/> Other modifications | <input type="checkbox"/> Other | |

It is understood that other GB frameworks require revision as a result of the UK leaving the EU with an agreement. Modifications have been raised at the CUSC and Grid Code panels at the same time as this modification. However, this modification is not interactive with any proposal for changes to other GB frameworks.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
CM	Code Modification
CUSC	Connection and Use of System Code
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
IP Completion Day	Implementation Period Completion Day (30 December 2020)
TCA	Trade and Cooperation Agreement
IEM	Internal Energy Market

Reference material

- [UK-EU Trade and Cooperation Agreement](#)
- [European Union \(Withdrawal\) Act 2018](#)
- [European Union \(Withdrawal Agreement\) Act 2020](#)
- [CM072: STC changes in the event the UK leaves the EU without an agreement](#)