

## Draft Final Self-Governance Modification Report

# 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)).

### Modification process & timetable



**Have 5 minutes?** Read our [Executive summary](#)

**Have 20 minutes?** Read the full [Final Self-Governance Modification Report](#)

**Have 30 minutes?** Read the full Final Self-Governance Modification Report and Annexes.

**Status summary:** This Report will be submitted to the STC Panel for them to carry out their Determination Vote on whether this change should happen.

**Panel recommendation:** The Panel has determined unanimously/by majority that the Proposer's solution is implemented.

**This modification is expected to have a: **Low impact**** on all STC parties.

**Governance route** This modification has followed the Self-Governance route and proceeded straight to Code Administrator Consultation. The Panel will make the decision on whether it should be implemented.

**Who can I talk to about the change?**

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**Appeals window**

If you want to appeal this decision, please send your [appeals form](#) and relevant documentary evidence to [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk) by 5pm on 26 July 2021 and ensure you copy in [stcteam@nationalgrideso.com](mailto:stcteam@nationalgrideso.com)

## Contents

<b>Contents</b> .....	<b>2</b>
<b>Executive summary</b> .....	<b>3</b>
<b>What is the issue?</b> .....	<b>4</b>
Why change? .....	4
<b>What is the solution?</b> .....	<b>5</b>
Proposer's solution .....	5
Legal text .....	5
<b>What is the impact of this change?</b> .....	<b>5</b>
<b>Proposer's assessment against STC Objectives</b> .....	<b>5</b>
Code Administrator Consultation summary .....	6
Panel determination vote .....	7
Panel conclusion .....	8
<b>When will this change take place?</b> .....	<b>9</b>
Implementation date .....	9
Date decision required by .....	9
Implementation approach .....	9
<b>Interactions</b> .....	<b>9</b>
<b>Acronyms, key terms and reference material</b> .....	<b>9</b>
Reference material .....	9
<b>Annexes</b> .....	<b>10</b>

## Executive summary

This modification is seeking 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).

### 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.

In the Proposer's view 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.

### What is the solution and when will it come into effect?

**Proposer's solution:** In the Proposer's view, as a consequence of the deal, the STC needs to be amended so that the references appropriately reflect this change in approach. The proposed modification would ensure that the STC is aligned with Retained EU law.

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

**Panel recommendation/determination:** The Panel has determined unanimously/by majority that the Proposer's solution is implemented

### What is the impact if this change is made?

In the Proposer's view this proposal is expected to have a low impact on all STC parties. The STC would need 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.

### Interactions

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.

## 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?

In the Proposer's view the STC would need 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.

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 solution?

### Proposer's solution

In the Proposer's view as a consequence of the deal, the STC would need to be amended 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.

### Legal text

The legal text for this change can be found in Annex 3.

## 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	<b>Positive</b> 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	<b>Neutral</b>
(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	<b>Neutral</b>

(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	<b>Neutral</b>
(e) promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC	<b>Positive</b> 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;	<b>Neutral</b>
(g) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.	<b>Positive</b> Provides clarity around application of Retained EU Law.

### **Code Administrator Consultation summary**

The Code Administrator Consultation was issued on the 14 May 2021 closed on 07 June 2021 and received one response. A summary of the response can be found in the table below, and the full response can be found in Annex 04.

<b>Code Administrator Consultation summary</b>	
<b>Question</b>	
Do you believe that the CM076 Original Proposal better facilitates the STC Objectives?	Yes. CM076 will ensure Retained EU Law will function effectively in the context of the STC. These changes will positively impact objective (a) as they ensure references to EU regulations and EU entities are modified to reflect the relevant Statutory Instruments captured within the European Union (Withdrawal) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020).
Do you support the proposed implementation approach?	Yes. Implementation should be sought as soon as practicable.
Do you have any other comments?	National Grid ESO notes that there may be additional changes required as a result of the EU– UK Trade and Cooperation Agreement in the fullness of time. However, given that there is no way of knowing if/when any further changes may occur, the changes proposed by CM076 should be applied in the immediacy.

<b>Legal text issues raised in the consultation</b>
None
<b>EBGL issues raised in the consultation</b>
None

### **Panel determination vote**

The Panel met on the 30 June 2021 to carry out their determination vote.

They assessed whether a change should be made to the STC by assessing the proposed change and any alternatives against the Applicable Objectives.

**Vote 1:** Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Matt Baller: National Grid Electricity System Operator (NGESO)**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Neutral	Yes			Yes
<b>Voting Statement</b>								
This is a minor modification and ensures the continued efficient operation of the STC post-Brexit by updating references to EU institutions and laws. We note that, while the text is the same as for the earlier 'no deal' modification (CM072) which was withdrawn following the signing of the TCA, it is possible that when some of the conditions in the TCA have been further explored further changes may be required and will be brought forward as appropriate. We would support proceeding straight to CAC and following the self-governance route								

**Vote 1:** Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Neil Bennett/Neil Sandison: Scottish Hydro Electric Transmission plc. (SHET)**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original								
<b>Voting Statement</b>								

**Vote 1:** Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Milorad Dobrijevic/Deborah MacPherson: Scottish Power Transmission plc. (SPT)**

	Better facilitat es AO (a)?	Better facilitat es AO (b)?	Better facilitat es AO (c)?	Better facilitate s AO (d)?	Better facilitate s AO (e)?	Better facilitate s AO (f)?	Better facilitate s AO (g)?	Overall (Y/N)
Original								
Voting Statement								

**Vote 1:** Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Joel Matthews: Offshore Transmission Owner (OFTO)**

	Better facilitat es AO (a)?	Better facilitat es AO (b)?	Better facilitat es AO (c)?	Better facilitate s AO (d)?	Better facilitate s AO (e)?	Better facilitate s AO (f)?	Better facilitate s AO (g)?	Overall (Y/N)
Original								
Voting Statement								

**Vote 1:** Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Richard Woodward: National Grid Electricity Transmission (NGET)**

	Better facilitat es AO (a)?	Better facilitat es AO (b)?	Better facilitat es AO (c)?	Better facilitate s AO (d)?	Better facilitate s AO (e)?	Better facilitate s AO (f)?	Better facilitate s AO (g)?	Overall (Y/N)
Original								
Voting Statement								

**Vote 2 –** Which option is the best?

Panel Member	BEST Option?	Which objectives does this option better facilitate? (If baseline not applicable).
Matt Baller/Robert Wilson/Nicola Bruce/Keith Jones		
Neil Sandison/Neil Bennett		
Milorad Dobrijevic/ Deborah Macpherson		
Joel Matthews		
Richard Woodward/Ian Bottomer		

**Panel conclusion**

The Panel unanimously/ by majority determined that the Proposer’s solution should be implemented.



## 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.

## Interactions

- |   |  |  |                                |
|---|--|--|--------------------------------|
| <input checked="" type="checkbox"/> Grid Code   | <input type="checkbox"/> BSC                               | <input checked="" type="checkbox"/> CUSC     | <input type="checkbox"/> SQSS  |
| <input type="checkbox"/> European Network Codes | <input type="checkbox"/> EBGL Article 18 T&Cs <sup>1</sup> | <input type="checkbox"/> Other modifications | <input type="checkbox"/> Other |

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
NGESO	National Grid Electricity System Operator
IP Completion Day	Implementation Period Completion Day (30 December 2020)
TCA	Trade and Cooperation Agreement
IEM	Internal Energy Market
BSC	Balancing and Settlement Code

### 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](#)

<sup>1</sup> If the modification has an impact on Article 18 T&Cs, it will need to follow the process set out in Article 18 of the European Electricity Balancing Guideline (EBGL – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process.

**Annexes**

Annex	Information
Annex 1	Proposal form
Annex 2	Self-Governance statement
Annex 3	Legal Text
Annex 4	Code Administrator Consultation Response

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