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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the position to be taken on behalf of the European Union within the EU-UK Specialised Committee on Energy established under the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, concerning the EU-UK electricity trading arrangements
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COUNCIL DECISION (EU) 2023/...

of ...

**on the position to be taken on behalf of the European Union
within the EU-UK Specialised Committee on Energy established under
the Trade and Cooperation Agreement between the European Union
and the European Atomic Energy Community, of the one part,
and the United Kingdom of Great Britain and Northern Ireland, of the other part,
concerning the EU-UK electricity trading arrangements**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular
Article 194(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 29 April 2021, the Council adopted Decision (EU) 2021/689¹ on the conclusion of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part² (the ‘Trade and Cooperation Agreement’). The Trade and Cooperation Agreement has been applied provisionally as of 1 January 2021 and entered into force on 1 May 2021.
- (2) Pursuant to Article 8(4), point (c), of the Trade and Cooperation Agreement, the Specialised Committee on Energy (the ‘Specialised Committee’) may adopt decisions and recommendations in respect of all matters where the Trade and Cooperation Agreement or any supplementing agreement so provides or for which the Partnership Council has delegated powers to it, on issues related to its area of competence. Pursuant to Article 10(2) of the Trade and Cooperation Agreement, a committee is to adopt decisions and make recommendations by mutual consent.

¹ Council Decision (EU) 2021/689 of 29 April 2021 on the conclusion, on behalf of the Union, of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, and of the Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland concerning security procedures for exchanging and protecting classified information (OJ L 149, 30.4.2021, p. 2).

² OJ L 149, 30.4.2021, p. 10.

- (3) Article 311(1) of the Trade and Cooperation Agreement requires each Party to ensure that capacity allocation and congestion management on electricity interconnectors is market based, transparent and non-discriminatory. The Parties should address, among others and as appropriate, capacity calculation, congestion management and trading arrangements for all relevant timeframes, including the day ahead timeframe. Pursuant to Article 311(1), point (f), in conjunction with Article 311(2) of the Trade and Cooperation Agreement, each Party is to ensure that capacity allocation and congestion management across electricity interconnectors is coordinated between the Union and United Kingdom transmission system operators for electricity (the ‘TSOs’) for all relevant timeframes while such coordination is not to involve or imply participation of the latter in relevant Union procedures.
- (4) Article 312(1) of the Trade and Cooperation Agreement requires that for capacity allocation and congestion management at the day ahead stage, the Specialised Committee take, as a matter of priority, the necessary steps in accordance with Article 317 to ensure that TSOs develop arrangements setting out technical procedures for the day ahead timeframe.

- (5) On 22 January 2021, the Directorate-General for Energy of the European Commission and the Department for Business, Energy and Industrial Strategy of the United Kingdom Government provided a preliminary recommendation to the TSOs, in advance of the commencement of work by the Specialised Committee. Concerning capacity calculation and allocation for the day-ahead timeframe, the preliminary recommendation invited TSOs to prepare a day-ahead target model based on the concept of ‘multi-region loose volume coupling’ in accordance with Article 312(1), Article 317(2) and (3) and Annex 29 to the Trade and Cooperation Agreement. Concerning capacity calculation and allocation for timeframes other than the day ahead timeframe, the preliminary recommendation invited the TSOs of the Parties to jointly prepare a proposal for a timeline for developing the draft technical procedures.
- (6) Given that the Specialised Committee started its operations in the course of 2021, it is appropriate, pursuant to Article 317(2) of the Trade and Cooperation Agreement, that it now confirms, as its recommendation to the Parties, the preliminary recommendation issued on 22 January 2021, as provided by the Parties to the TSOs, requesting them to start preparing technical procedures for the efficient use of electricity interconnectors. The preliminary recommendation, once confirmed as a recommendation of the Specialised Committee, should continue to frame any further work of the TSOs in this regard.

- (7) Based on the preliminary recommendation of 22 January 2021, the TSOs of both Parties submitted to the Commission a cost-benefit analysis of the options for the development of the multi-region loose volume coupling as set out in Annex 29 to the Trade and Cooperation Agreement and an outline of the corresponding technical procedures. On 7 May 2021, the Agency for Cooperation of Energy Regulators submitted to the Commission its informal opinion on this analysis.
- (8) The Commission considered the result of the cost-benefit analysis and the opinion of the Agency for Cooperation of Energy Regulators against the requirements of the Trade and Cooperation Agreement and informed the Council of its preliminary views. It concluded that the results obtained by the TSOs need to be refined and further information is needed on all options analysed by them. The United Kingdom agreed with this conclusion at the meeting of the Specialised Committee on 30 March 2022.
- (9) It is therefore appropriate to support the adoption by the Specialised Committee of a Recommendation to the Parties concerning their request to the TSOs for additional information supplementing the cost-benefit analysis and the outline proposals for technical procedures in order to assist the Specialised Committee in discharging its obligations under Article 312(1) and Article 317(2) of the Trade and Cooperation Agreement. It is appropriate that the Union requests its TSOs to provide such further information within five months of the date of request.

- (10) The Specialised Committee is to adopt the Recommendation to each Party concerning their requests to TSOs in view of preparing technical procedures for the efficient use of electricity interconnectors as soon as possible. The Specialised Committee is to adopt the Recommendation either during its next meeting, or by written procedure, whichever is sooner, following the completion of domestic procedures by each Party.
- (11) It is appropriate to establish the position to be taken on the Union's behalf in the Specialised Committee concerning the Recommendation to each Party concerning their requests to TSOs, as the envisaged Recommendation will be capable of decisively influencing the content of or the way in which the Union acquis is to be implemented, in particular Commission Regulation (EU) 2015/1222¹,

HAS ADOPTED THIS DECISION:

¹ Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (OJ L 197, 25.7.2015, p. 24).

Article 1

The position to be taken on behalf of the European Union within the Specialised Committee on Energy is set out in the draft recommendation of the Specialised Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at ...,

For the Council

The President
