



Brussels, 22 December 2025  
(OR. en)

17112/25  
ADD 1

UK 270  
ENER 703  
MI 1098  
POLCOM 388

#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	22 December 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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No. Cion doc.:	COM(2025) 804 annex
Subject:	Annex to the recommendation for a COUNCIL DECISION authorising the opening of negotiations between the European Union and the United Kingdom of Great Britain and Northern Ireland on the participation of the United Kingdom in the internal electricity market of the Union and on the financial contribution of the United Kingdom towards reducing economic and social disparities between the regions of the Union

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Delegations will find attached document COM(2025) 804 annex.

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Encl.: COM(2025) 804 annex

Brussels, 22.12.2025  
COM(2025) 804 final

ANNEX

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to the

**Recommendation for a COUNCIL DECISION**

**authorising the opening of negotiations between the European Union and the United Kingdom of Great Britain and Northern Ireland on the participation of the United Kingdom in the internal electricity market of the Union and on the financial contribution of the United Kingdom towards reducing economic and social disparities between the regions of the Union**

## ANNEX

### **A. AGREEMENT ON THE PARTICIPATION OF THE UNITED KINGDOM IN THE INTERNAL ELECTRICITY MARKET OF THE UNION**

#### **INSTITUTIONAL PROVISIONS**

1. The implementation of the envisaged agreement should be subject to joint governance mechanisms. These mechanisms should have adequate roles in the procedures ensuring the incorporation of the Union's evolving legislation, through dynamic alignment, into the legal order of the United Kingdom.

#### **General principles**

2. The institutional provisions should ensure that the rules applicable to relations with the United Kingdom in the fields covered by the agreement, where relevant, are the same as those applying in the Union internal market, at all times, and that their interpretation and application cannot differ.
3. Bearing in mind that objective, the institutional provisions should reflect the following essential principles and include the following elements:

#### **Dynamic alignment**

4. The common institutional provisions shall ensure that the United Kingdom applies at all times the full body of Union acquis that is relevant for the purpose of the agreement, on a dynamic basis. This body of Union acquis should be listed in the agreement as existing at the time of signature. Subsequent relevant legal acts of the Union, including amendments to existing legal acts, should be incorporated into the respective agreement by means of appropriate mechanisms. The incorporation of new relevant acts of Union law into the agreement should be done by a joint body as soon as possible after their adoption and within a given deadline and constitute an obligation for the Parties. If the deadline is not met, the Parties shall be able to submit the case to dispute settlement.
5. The principle of dynamic alignment should ensure that identical rules within the scope of the agreement are simultaneously applied.

#### **Decision shaping**

6. The agreement should not give the United Kingdom the right to participate in the Union's decision-making. However, the United Kingdom should be involved at an early stage and contribute appropriately for a country that is not a member of the European Union to the decision-shaping process of the European Union. The involvement should be limited to draft legal acts in the fields covered by the obligation to dynamically align and simultaneously apply. The European Commission should consult the United Kingdom at an early stage of policy-making. This implies that, taking into account its status as a third country, the Commission provides draft legal acts to the United Kingdom at the same time than it provides them to representatives of the Member States during the decision-shaping phase. The Commission may allow consultations with the United Kingdom on such draft legal acts in a similar than how it consults Member States experts. The agreement may not provide for a right of the United Kingdom to vote. The possible consultation with the United Kingdom will not extend to participation in the work of the Council or its preparatory bodies.

### **Uniform interpretation and application of the Union acquis**

7. The institutional provisions should lay down an obligation for the United Kingdom to interpret and apply Union law in relations between the Parties in the same way as it is interpreted and applied within the Union. This requires that the Union acts referred to in the agreement and, to the extent that their application involves concepts of Union law, the provisions of the agreement be interpreted and applied in accordance with the case-law of the Court of Justice of the European Union both prior and subsequent to the signature of the agreement.

### **Dispute settlement**

8. The institutional provisions should ensure that disputes in the interpretation or application of the agreement can be submitted by the Parties to a dispute settlement mechanism based on that established by Title I of Part Six of the Trade and Cooperation Agreement for their resolution if an amicable solution cannot be found within a joint body. The dispute settlement mechanism should safeguard the exclusive competence of the Court of Justice of the European Union to interpret Union law. To that end, the arbitral tribunal should be under an obligation to refer to the Court of Justice of the European Union all questions of Union law (including a concept or a provision of Union law) for it to give a ruling which should be binding on the arbitral tribunal.

### **Appropriate measures to protect the Union interests and interconnection between agreements in case of non-compliance with the ruling of the arbitral tribunal**

9. An effective system of appropriate measures, including temporary remedies, should guarantee the integrity of the internal market in case of non-compliance with the ruling of the arbitral tribunal. In particular, the procedure to be followed in case of non-compliance with the arbitral tribunal's decision should include the possibility to take appropriate measures to protect the Union interests, including in the agreement concerned or in another agreement in force between the parties.

### **Consistency with the Trade and Cooperation Agreement**

10. Without prejudice to paragraphs 1 to 8, the agreement should build on the institutional framework laid down in the Trade and Cooperation Agreement, in particular as regards the role of the Partnership Council. A joint body on the implementation of the agreement shall be set up, unless its functions are assigned to an existing joint body under the Trade and Cooperation Agreement.
11. The agreement should ensure that the Safeguard Measures clause of the Trade and Cooperation Agreement (Article 773 of the Trade and Cooperation Agreement) applies.
12. The provisions of the Trade and Cooperation Agreement as regards essential elements (Articles 771 and 772 of the Trade and Cooperation Agreement) should apply with respect to the agreement.
13. The agreement should contain a provision that deals with its relationship with the Trade and Cooperation Agreement in order to avoid conflicts and ensure that the application of any provisions of the Trade and Cooperation Agreement that are in conflict would be suspended.

## **PROVISIONS FOR THE TERMINATION OF THE AGREEMENT**

14. The agreement should contain provisions for termination and suspension. The process by which a Party may terminate or suspend the respective agreement, including their taking

effect, should be specified in a clear and consistent manner. In particular, the provision on termination should specify an appropriate timeframe within which the agreement shall cease to exist.

## **SUBSTANTIVE PROVISIONS**

### **Territorial scope**

15. The agreement should apply, for the Union, to the territories in which the Treaties apply and under the conditions laid down therein and in the United Kingdom in respect of Great Britain and in respect Northern Ireland, where the Windsor Framework does not apply.

### **Material scope**

16. The agreement should allow the participation of the United Kingdom in the European Union's internal electricity market, both the wholesale and retail markets. It should include the participation in the EU's trading platforms in all timeframes and in relevant bodies, such as ENTSO-E or EU DSO Entity, and processes relevant for regulatory coordination, security of supply and grid stability. The agreement should ensure the integration of Union rules on the wholesale energy market integrity and transparency and their application, including to financial instruments that qualify as wholesale energy products under those Union rules. It should not provide for the participation of the United Kingdom in the Union's financial services market nor require the Union or the United Kingdom to change or alter the application of its rules on financial instruments and financial services for the purpose of this agreement.
17. The agreement should ensure the dynamic alignment of the laws of the United Kingdom with the rules of the Union on the electricity market and provide for their simultaneous application in the United Kingdom. Within the framework of the Union rules on the electricity market, the United Kingdom should be able to adopt policy measures to ensure affordable electricity prices, security of electricity supply and grid stability in the same way as Member States of the European Union. The envisaged agreement may also contain provisions allowing a phasing in of the United Kingdom's participation into the EU internal electricity market and a limited number of objectively justified technical adaptations. All of these measures should be designed in such a way that they do not (i) negatively affect the design and effective functioning of the European Union's electricity market, ii) affect or distort cross-border electricity exchanges, or iii) put the United Kingdom in a more advantageous position than a Member State of the Union.
18. The agreement should also ensure the dynamic alignment of the laws of the United Kingdom with the rules of the Union on the promotion of renewable energy sources and provide for their simultaneous application in the United Kingdom. It should set an indicative global target for the share of renewable energy in the gross final consumption of energy in the United Kingdom. To ensure a level playing field, the global target should be comparable to that of the Union and based on the definitions, requirements and methodologies set by the Union acquis. In setting the target, due regard should be paid to the United Kingdom's Climate Change Act 2008 obligations and Nationally Determined Contributions. The sectoral sub-targets in transport, buildings, heating and cooling and industry sectors should fall outside the scope of the Electricity Agreement. The agreement may also contain provisions allowing a limited number of technical adaptations to the renewable energy acquis provided that they i) are justified by objective criteria, excluding policy choices, ii) ensure that the global renewable energy target of the United Kingdom

remains comparable to that of the Union and iii) do not put the United Kingdom in a more advantageous position than a Member State of the Union.

19. The agreement should also provide that the United Kingdom ensures, dynamically and at all times, at least the same level of environmental protection in law as set out in the relevant European Union rules on the protection of the environment. This should be ensured with respect to each obligation and each right in those European Union rules, insofar as they are relevant for the electricity sector. The United Kingdom should be able to determine how to achieve this result. The agreement should ensure that the United Kingdom maintains the possibility to adopt measures which provide a higher level of environmental protection.
20. Furthermore, the agreement should ensure that the United Kingdom applies, at all times, State aid rules covering any aid that specifically targets the electricity sector or has a particular material effect on the electricity market, including existing aid but not affecting the validity of aid already granted to individual beneficiaries, for example in the form of legally binding commitments pre-dating the entry into force of the agreement. The agreement should guarantee that there are the same substantive and procedural State aid rules as the rules of the European Union. This should include providing for their dynamic alignment with Union law.
21. The agreement should require the United Kingdom to ensure that State aid control is carried out by an independent authority which, in terms of State aid control, enjoys the same powers as the European Commission and that is subject to the same rules, as those applying to the European Commission in that regard. This should include, inter alia, rules on transparency, investigation and evidence gathering, ex ante control of State aid, issuing binding State aid decisions and recovery of incompatible State aid (plus interest). The agreement should establish an administrative cooperation between the European Commission and the United Kingdom independent authority allowing for exchanges of administrative practice, including on case practice. The agreement should provide for an adequate transition period for the implementation of the new rules in the United Kingdom.

#### Other aspects

22. The agreement should be based on a balance of rights and obligations and ensure a level playing field.
23. The agreement should provide for the participation of the relevant energy regulatory authority of the United Kingdom, in respect of Great Britain, in the work of the Union Agency for the Cooperation of the Energy Regulators (ACER), without a right to vote, in line with the requirements of the Union *acquis*. The agreement should extend to the United Kingdom, in respect of Great Britain, the competences of ACER in terms of regulatory oversight over the functioning of the internal electricity markets.
24. The United Kingdom should bear appropriate costs for participation in the internal electricity market of the Union. The United Kingdom should contribute financially to supporting the relevant costs associated with the Union's work in this policy area. This includes financial contribution to *inter alia* the functioning of the relevant Union agencies, systems and databases to which the United Kingdom would gain appropriate access.
25. This agreement and the agreement on the financial contribution of the United Kingdom towards reducing economic and social disparities between the regions of the Union should provide for their simultaneous entry into force.
26. To ensure that the envisaged agreement and the Trade and Cooperation Agreement establish a consistent and coherent framework for the energy relationship of the Union

with the United Kingdom, the envisaged agreement should, for as long as it remains applicable, suspend the application of some of the provisions of the Trade and Cooperation Agreement.

27. Where the envisaged agreement overlaps with the Windsor Framework, the Windsor Framework should prevail over it in all relevant areas, including wholesale electricity markets, environment, State aid and other provisions, including underlying governance rules.

## **B. AGREEMENT ON THE FINANCIAL CONTRIBUTION OF THE UNITED KINGDOM TOWARDS REDUCING ECONOMIC AND SOCIAL DISPARITIES BETWEEN THE REGIONS OF THE UNION**

28. The negotiations of an agreement on the financial contribution of the United Kingdom to the Union's cohesion should start at the same time as the negotiations on the participation of the United Kingdom in the internal electricity market of the Union.
29. The agreement should establish a permanent, legally binding mechanism for the appropriate financial contribution of the United Kingdom towards reducing economic and social disparities between the regions of the Union.
30. The agreement should be aimed at encouraging the continuous and balanced strengthening of economic and social relations between the Union and the United Kingdom.
31. The agreement should ensure an appropriate level of financial contribution. It should be calculated based on the Union financial contribution towards reducing the disparities between the regions of the Union, adjusted to reflect the relative size of the UK economy and the proportion of the internal market to which the United Kingdom participates.
32. The agreement and the agreement on the participation of the United Kingdom in the internal electricity market of the Union should provide for their simultaneous entry into force.
33. The agreement should establish a robust mechanism for resolving disputes between the Union and the United Kingdom.

## **C. FUNCTIONS OF THE DEPOSITARY**

34. If the envisaged agreements provide for a depositary, the EU negotiator should ensure that the functions of the depositary will be performed by the Secretary-General of the Council of the European Union.
35. If the envisaged agreements do not provide for a depositary, the EU negotiator should ensure that the General Secretariat of the Council of the European Union will be entrusted with the tasks to provide to, and receive from, the United Kingdom notifications for the Union (and, if applicable, its Member States) under the agreements.

## **D. AUTHENTIC LANGUAGES**

36. The envisaged agreements, which should be equally authentic in all official languages of the Union, should include a language clause to that effect.

## **E. PROCEDURAL ARRANGEMENTS FOR THE CONDUCT OF THE NEGOTIATIONS**

37. The Commission shall conduct the negotiations in continuous coordination and permanent dialogue with the Council and its preparatory bodies. In this respect, the Council and Committee of Permanent Representatives (Coreper), assisted by the Working Party on the United Kingdom, which shall be the special committee within the meaning of Article 218(4) TFEU, shall provide guidance to the Commission.
38. The Commission shall, in a timely manner, consult and report to the Working Party on the United Kingdom. To that end, the Council shall organise before and after each negotiating session a meeting of the Working Party on the United Kingdom. The Commission shall provide in a timely manner all necessary information and documents relating to the negotiations.