

Brexit: EU-UK future energy and climate relationship

Eurelectric position paper



Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:

- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

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WG Brexit

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A Eurelectric position paper

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KEY MESSAGES

- In view of the mutual benefits and the importance of energy for the EU and the UK in powering their economies and societies, Eurelectric considers that collaboration should continue as closely as possible by supporting continued wholesale energy market integration, cross-border interconnection and efficient energy trading arrangements between the parties post- Brexit.
- Eurelectric is of the view that the UK actors should continue to be full members in relevant EU bodies such as ACER, ENTSO-E, ENTSOG, ESMA and ENSREG for the full duration of the transition period and to the largest extent possible, also after this period to prevent any regulatory divergence or oversight that could create unnecessary barriers to cross-border trade.
- EU infrastructure funding, through dedicated schemes has brought significant benefits to the EU and the UK, supporting the deployment of energy infrastructure and the development of low carbon technologies and projects. Eurelectric supports the UK's continued participation in the TEN E, PCIs and CEF on an equitable basis, assuming UK financial contributions into relevant EU programmes after 2020.
- The EU and the UK agree on the importance of protecting North-South co-operation and on the continued development of an island of Ireland energy market. They also highlight the need to preserve the integrity of the Good Friday Agreement which created the context for the Single Electricity Market (SEM). In view of this, Eurelectric supports the continuation of the island of Ireland energy market and calls for all parties to find a political solution that preserve the current market integration and cooperation.
- The energy sector plays a vital role in decarbonising the economy and reducing carbon emissions and both the EU and the UK share ambitious targets on climate change. As such Eurelectric would welcome the UK continuing to collaborate its participation towards the establishment of the EU's energy and climate goals.
- Eurelectric would support the UK's continued participation in the EU ETS, particularly as it has been closely involved in its Phase IV (2021-30) governance and has made political commitments to help facilitate innovation and modernise the energy infrastructure of lower income Member States through the innovation and modernisation funds. Key financial transfers to low income, high carbon Member States would be put into question

during Phase IV, threatening the hard fought political compromise reached on Phase IV reform.

- When the UK leaves the EU it will also leave the Euratom Community. Eurelectric highlights the importance of the EU working closely with the UK Government to ensure that appropriate arrangements are in place that preserves current EU and UK benefits, thereby avoiding disruption across the whole nuclear fuel cycle.
- Great Britain has one of the most liquid and well established gas markets in Europe, and is a significant hub, as well as a crucial link to the island of Ireland. As such, Eurelectric encourages the EU and the UK to seek an agreement that keeps the future relationship as close as possible to the current one, whether it be in relation to the UK's regulatory alignment with the IEM rules or its ongoing participation in the solidarity mechanism.
- Eurelectric highlights the importance of a future framework that ensures a consistent interface between financial and physical commodity markets. As such, the EU and the UK should maintain a common regulatory approach to avoid regulatory arbitrage and to ensure fair competition between market participants. This is particularly relevant as in wholesale energy there is already a pan-European market comprising both UK and the Continent.
- An arbitration mechanism will be needed to ensure that both the EU and the UK will abide by any new agreement.
- Eurelectric supports clear, business oriented arrangements. The dispute resolution mechanism needs to be timely, independent and enforceable.

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1. Introduction

The development of the EU's Internal Electricity Market (IEM) has had significant benefits for consumers in both the European Union (EU) and the wider European Economic Area (EEA), including those in the UK. It has enabled available resources and capacities to be shared across borders to reduce costs, improve security of supply and better integrate renewable electricity¹.

To develop these benefits further Eurelectric supports the development of a larger, more integrated European electricity market. Harmonised rules will ensure that existing and new electricity connections to third country markets can be optimised and do not lead to distortions that have adverse effects on wholesale electricity prices or security of supply in the EU's Internal Energy Market.

The impact of a breakdown in the energy relationship between the EU and the UK would be detrimental to both parties. Specifically, it would impact neighbouring countries including countries already interconnected with or planned interconnectors but in particular Ireland, as Ireland not only connects to the IEM through the UK, but also operates a Single Electricity Market (SEM) between Ireland and Northern Ireland. Maintaining this integrated arrangement is crucial to delivering an efficient market, value for consumers and security of supply on the island.

Whatever form the future agreement between the EU and the UK takes, it is crucial that it includes a full and comprehensive energy and climate chapter. When setting the terms of the future relationship, it is important to keep in mind the following areas: the Internal Electricity Market (IEM); including the trading and transmission framework created via the Network Codes and Guidelines, the Single Electricity Market (SEM), the EU energy and climate frameworks; the Industrial Emission Directive (IED), the EU Emissions Trading Scheme (EU ETS), the nuclear energy sector and the financial regulations that to an extent also frame energy commodity trading. In addition, the agreement should provide clear and early signals on governance, network codes and validity of contracts, as well as governance of current and future contracts.

Eurelectric's main aim in this paper is to set out the electricity industry's position on the priorities of the future framework agreement between the EU and the UK on energy and climate change. Given the mutual benefits and importance of energy to both the EU27 and the UK, Eurelectric views that this collaboration should continue as closely as possible.

2. Transitional arrangements

On 19 March 2018, the European Commission and the UK presented the progress made in the negotiation of a draft Withdrawal Agreement. On 23 March 2018, the European Council (Art. 50) welcomed the agreement reached on parts of the legal text and called for intensified efforts to make progress on the remaining withdrawal issues. This means that a transition period between 30 March 2019 and 31 December 2020 may be agreed, but this is not certain at this stage.

The current terms and the EU acquis under which the EU, including the UK, operate remain the same for the duration of the transition period, starting on 30 March 2019 and ending on 31 December 2020.

¹ In a 2013 report for the European Commission Booz & Co et al estimated benefits of electricity market coupling in the range of €2.5-4 billion per year for the EU27 or €5-8 per person (at the time included UK and not Croatia) - https://ec.europa.eu/energy/sites/ener/files/documents/20130902_energy_integration_benefits.pdf

Eurelectric is of the view that the UK actors should continue to be full members in relevant EU bodies such as ACER, ENTSO-E, ENTSOG, ESMA and ENSREG for the full duration of the transition period and to the greatest extent possible, also after this period. Throughout the transition period this cooperation will become even more important because of the ongoing work on the EU's Clean Energy Package and the Network Codes and Guidelines which will intensify just at the time that the EU and the UK define their future relationship for a successful energy cooperation. Ongoing participation in these agencies and bodies is therefore in the interests of both the EU and the UK.

It is important to note that the transitional arrangements allow for the UK's continued participation in the EU ETS until the end of Phase III (31 December 2020). The issue of UK businesses compliance for the year 2020 is acknowledged in the Withdrawal Agreement and is a topic still under discussion.

3. Participation in the IEM and ensuring tariff and tax-free flow of energy

The UK has played a leading role in the development of the IEM, from market liberalisation to the setup of the world's first major carbon market and supporting the importance of energy security in Europe's geopolitical relationship with its neighbours. In view of the mutual benefits and the importance of energy to both parties in powering their economies and societies, Eurelectric considers that this collaboration should continue as closely as possible. Given the physically networked nature of the energy industries, collaboration is not only desirable, it is essential for these cross-border physical connections to function efficiently and not undermine the IEM.

There are currently 4 GW of interconnector capacity between Great Britain and its neighbours. Another 4.4 GW is already under construction, with new interconnectors planned with Norway, France and Belgium. More interconnection projects are already in the pipeline for the longer term.

To ensure the integrity of the IEM, some common rules must be adhered to by connected third countries. The potential for and perceived risks of regulatory divergence, already add a risk premium and could lead to reduced efficiencies and competitive differences if common rules between the UK and the IEM diverged. Fundamentally the rules around the IEM help define what generator runs at any point in time and govern the contractual relations for capacity management and allocation as well as regional cooperation. Divergence could have significant impacts on wholesale electricity prices and ultimately security of supply, as well as on the potential for the avoidance of cross-border social or environmental requirements. According to the UK government, the Great Repeal Bill should ensure that the whole body of existing EU environmental law continues to have effect in UK law. The existing Network Codes and Guidelines will be put into the post-Brexit legal framework, but the UK should aim to maintain regulatory alignment with the EU going forward in order to limit the negative impact of divergence which would reduce efficiency in trading and increase costs.

Alongside maintaining the current working relationship with regards to the IEM, there should be a mutual commitment post-Brexit from the EU and the UK not to impose any form of taxation or tariff over the transportation and trade of energy other than to maintain the existing arrangements, i.e. taxes to mirror the carbon pricing of the EU-ETS should the UK not remain part of the main scheme.

Eurelectric supports continued wholesale energy market integration, cross-border interconnection and efficient energy trading arrangements between the EU and the UK post-Brexit.

4. Participation in EU bodies

On the broader governance framework, Eurelectric would welcome the continued membership of UK actors in ENTSO-E, ENTSOG, ESMA, the new EU DSO entity and ACER. The UK's membership in these bodies to date has helped guarantee the smooth functioning of physically connected energy markets between the EU and the UK, avoiding any potential breach of the IEM integrity and ensuring an optimal collaboration and engagement in the development of EU rules.

ENTSO-E co-ordinates the EU electricity Transmission System Operators' (TSOs) work at a regulatory level, and as such it is an essential part of the regulatory framework of the EU, in the integration of EU electricity markets. National Grid, in particular, is heavily involved in the work ENTSO-E is planning to deliver in the near future which will directly impact the UK, and, is also viewed as an important technical adviser in ENTSO-E. Note that ENTSOG carries out a similar role for EU gas markets.

UK TSOs should remain active participants in ENTSO-E's work in order to play their part in ensuring the implementation of Network Codes and Guidelines in the UK is compatible with the sought outcomes of the IEM, supporting the continued efficient functioning of EU, GB and Irish markets, continuing to support the evolution and implementation of the Clean Energy Package, and supporting the work on system adequacy and security of supply.

We also believe that, for the above reasons, SONI (System Operator for Northern Ireland) should also retain a presence in ENTSO-E.

The new EU-level entity for distribution system operators (DSOs) will potentially enhance TSO-DSO cooperation on planning and operation of their respective power networks. It will also have an impact on further deployment and integration of renewables, growth of demand response, grid tariffs and connection charges and data protection rules.

Ofgem, the GB regulator, is the longest-established EU energy regulator and has played a major role in the development of ACER whose workload is increasing with the Clean Energy Package.

Ofgem works closely with the island of Ireland regulators to ensure effective cross-border co-operation on the all-island Single Electricity Market which is one of the most integrated cross-border markets within the EU. This integration is based on a close cooperation between the two regulators on the island of Ireland, CRU (Commission for Regulation of Utilities) and the Northern Ireland Utility Regulator, and it is highly desirable, for all parties' benefits that this cooperation continues.

Ofgem's continued participation in ACER will also help to ensure the effective operation of the REMIT market transparency and integrity regime, the efficient implementation and operation of Network Codes and Guidelines and the implementation of Gas regional initiatives, considering the relevance of the UK's role in the European gas network – not least in security of supply issues. Ofgem also represents the Utility Regulator for Northern Ireland.

Eurelectric supports the continued participation of UK parties in the above-mentioned bodies to prevent any regulatory divergence or oversight in the long run that could create unnecessary barriers to cross-border trade between the EU and the UK.

5. Cooperation on funding for energy projects

EU infrastructure funding, through dedicated schemes has brought significant benefits to the EU and the UK, supporting the deployment of energy infrastructure and the development of low carbon technologies and projects.

The UK is involved in the Trans-European Networks for Energy (TEN-E), Projects of Common Interest (PCIs) and the Connecting Europe Facility (CEF), all crucial European projects to deliver the necessary physical infrastructure to strengthen the flow of energy across Europe now and in the future.

As the UK, alongside other EU Member States, aims to increase its interconnections, it is essential to guarantee a coherent regulatory framework to ensure the optimum operation of interconnections and TSO cooperation for both the UK and Continental Europe in the future. Instability could increase the costs of infrastructure projects, undermine their business case and slow down the development of the common European energy market.

Eurelectric supports the UK's continued participation in the TEN E, PCIs and CEF on an equitable basis, assuming UK financial contributions into relevant EU programmes after 2020.

6. Ireland and Northern Ireland

The EU and the UK agree on the importance of protecting North-South co-operation and on the continued development of an island of Ireland energy market. They also highlight the need to preserve the integrity of the Good Friday Agreement which created the context for the Single Electricity Market (SEM)

More practically, the SEM provides customers in Ireland and Northern Ireland with significant economic benefits by creating a level of liquidity that wouldn't be there if the market was split into two separate markets. The all-island approach has facilitated the integration of unprecedented levels of renewable energy onto a non-synchronous system, leading to enhanced security of supply in both jurisdictions. It is also worth noting that Northern Ireland already differs from the rest of the UK, as it is exempt from the Carbon Price Floor which applies to all GB generators using fossil fuels. As the Integrated Single Electricity Market (I-SEM) takes over from the SEM in October 2018, further supporting and enhancing the benefits of the all-island market, it will be essential that a directly tradable carbon mechanism is in place to support the smooth functioning of I-SEM post-Brexit.

Eurelectric supports the continuation of the island of Ireland energy market and calls for all parties to find a political solution that preserve the current market integration and cooperation.

7. Continued collaboration on climate change and environmental targets efforts

UK actions on climate change contribute strongly to the EU's performance overall and both the EU and the UK share ambitious targets on climate change.

The energy sector plays a vital role in decarbonising the economy and reducing carbon emissions. If political agreements between the EU and UK on renewables, energy efficiency or non-ETS targets were not to be maintained, this could mean either a recalculation of the EU's percentage

targets or an increase in the level of emission reductions required to match the existing percentage targets. Maintaining the percentage targets without the UK would mean the rest of the EU must do more on non-ETS greenhouse gas emissions, and possibly more on renewable energy as the UK is below the average in renewable energy deployment in Europe.

If the UK accepts that it will continue to adhere to EU energy and climate targets (as part of an arrangement to retain access to the IEM), it may be required to participate in the new Energy Union governance structure. If the UK cannot commit to EU energy and climate targets, a political decision among the EU27 is needed on how to adjust the EU energy and climate targets after Brexit. This is a very current issue in light of the Heads of States having recently asked the Commission to develop a long-term climate strategy (by Q1 2019) to meet the Paris Agreement objectives.

Strategic projects, such as the North Sea Grid initiative transcend national borders and are part of the longer term vision of decarbonisation and regional co-operation to optimise the deployment of renewable energy throughout Europe in the most cost-effective way. The UK's geographical positioning makes it an essential part of the jigsaw and removing this part would require a complete rethink of the project delivery process. A new collaborative relationship between the EU and UK to deliver such projects will be needed to deliver long term climate objectives.

Eurelectric would welcome the UK continuing to collaborate in its participation towards the establishment and the delivery of the EU's energy and climate goals.

8. Participation in the EU Emissions Trading Scheme (EU ETS)

The UK has played a leading role in the origins and the development of the EU ETS and is a major advocate of carbon trading on the global stage. The EU and the UK should strive to continue the collaboration on climate diplomacy to close the global emissions gap, in line with the long term temperature targets in the Paris Climate Change Agreement.

To ensure the free and fair trading of electricity Eurelectric considers that equivalent carbon costs should be applied to electricity generation that freely trades within the pan-European market, preferably through continued UK participation in the EU ETS or a directly linked UK trading scheme.

Should the UK opt to leave the EU ETS, then, for the purpose of the free and fair trading of electricity, a carbon price equal to the EU ETS price would need to be applied to UK electricity generators. This could be through a linked UK ETS of similar ambition and rules with units tradable 1:1 with EU allowances (EUAs).

Furthermore, if the UK exits the EU ETS it might cause a short-term surplus of allowances that will need to be addressed, but most likely Brexit will tighten the system in the longer term.

Eurelectric would support the UK's continued participation in the EU ETS, particularly as it has been closely involved in its Phase IV (2021-30) governance and has made political commitments to help facilitate innovation and modernise the energy infrastructure of lower income Member States through the innovation and modernisation funds.

9. Industrial Emission Directive/Large Combustion Plant

If the UK wants to remain in the IEM, it is reasonable that it should follow the environmental requirements that apply to other electricity market participants, to ensure a level playing field of regulation and associated costs is maintained for all IEM participants. In this context, the most significant piece of relevant legislation is the Industrial Emissions Directive (IED) and its associated Best Available Techniques (BAT) Reference Document for Large Combustion Plants (LCP BREF). Generators subject to the IED have until August 2021 to comply with the emission limits set out in the revised LCP BREF and the UK Government and environmental regulators should make it clear as soon as possible that they expect companies to comply with that commitment.

10. Gas market

Great Britain has one of the most liquid and well established gas markets in Europe, and is a significant gas hub, as well as a crucial link to the island of Ireland. Ireland imports about half of its gas through Great Britain. The IEM is important for gas, improving responsiveness of market prices and supplies across Europe. Liquidity in the gas market across Europe is important as gas remains a substantial component of the energy mix, not only for heat, but also for power generation. EU solidarity mechanisms highlight a need to continue to keep the gas market fluid and secure; excluding the UK from these mechanisms could have a detrimental impact on the UK and neighbouring countries, due to the UK's role as a transit hub.

Ireland is heavily dependent on gas interconnection with the UK to satisfy its own demand but also as the physical infrastructure connection to the EU gas market. This is particularly important for security of supply to both Irish gas markets in Northern Ireland and Ireland. Ireland's dependence is reinforced by the fact that about 45% of its electricity is generated from gas. Maintaining UK participation in ENTSOE is important to ensure continued regulatory alignment and close cooperation.

Eurelectric encourages the EU and the UK to seek an agreement that keeps the future relationship as close as possible to the current one, whether it be in relation to the UK's regulatory alignment with the IEM rules or its ongoing participation in the solidarity mechanism.

11. Euratom Treaty

The Euratom Treaty established a common market within the EU for nuclear goods, services and workers, and established the Euratom Supply Agency (ESA) to ensure a regular and equitable supply of nuclear fuels to users in the EU. It also helped promote nuclear research and development, encouraged trade with key nuclear markets outside of the EU through a number of Nuclear Co-operation Agreements (NCAs), and created a European-wide safeguards regime.

When the UK leaves the EU it will also leave the Euratom Community. To avoid disruption across the whole nuclear fuel cycle, the EU should work closely with the UK Government to ensure that appropriate arrangements are in place that preserve current EU and UK benefits. In particular, it is crucial that a new EU-UK cooperation agreement is concluded covering the following issues:

1. Arrangements to ensure/facilitate, to the greatest extent possible, free and unrestricted trade in nuclear and non-nuclear materials (including fuel), goods and services and access to information;
2. Arrangements to ensure/facilitate, to the greatest extent possible, the free movement of nuclear workers across the nuclear industry in the EU-UK;

3. Review and approval of EU27-UK fuel contracts, including continuation of the free market (as set out in Chapter IX of the Euratom Treaty) in nuclear material/fuel and associated products between the Community and the UK; and confirmation of validity of existing frameworks/contracts;
4. An EU-UK export control licence regime that preserves the benefits of the current EU-UK arrangements, including the existing intra-EU cooperation;
5. EU-UK arrangements should be implemented to maintain UK coordination and cooperation in the development of nuclear policy & regulation;
6. EU-UK arrangements should be implemented to preserve to the greatest extent possible international collaboration in nuclear R&D.

Likewise, it is important to underline that, post Brexit, the UK should continue to comply with IAEA safety standards and requirements, as it has done under the Euratom Community, as well as to maintain standards of physical protection for exchange/transport of material/goods/equipment.

Eurelectric highlights the importance of the EU working closely with the UK Government to ensure that appropriate arrangements are in place that preserves current EU and UK benefits, thereby avoiding disruption across the whole nuclear fuel cycle.

12. Energy commodity trading

Besides physical contracts, energy companies also trade a variety of financial contracts. Therefore it is important that there is a future framework that ensures a consistent interface between financial and physical commodity markets. As such, the EU and the UK should maintain a common regulatory approach to avoid regulatory arbitrage and to ensure fair competition between market participants. This is particularly relevant as in wholesale energy there is already a pan-European market comprising both UK and the Continent. This must be recognised as a separation of UK from a joint European energy market would imply complicated challenges in practice as well as in regulatory terms.

As an example, the relevant geographic scope in the legal frameworks of both the UK and the EU must ensure there is no divergence in the assessment of market participants' behaviors and practices in the power and gas markets. Another example is a crucial consideration for physically-settled power and gas contracts in order to avoid these physical contracts ending up inappropriately being subject to financial regulation.

Eurelectric highlights the importance of a future framework that ensures a consistent interface between financial and physical commodity markets.

13. Arbitration/governance

An arbitration mechanism will be needed to ensure that both the EU and the UK will abide by the new agreement.

Moreover, if the UK is to continue the free and fair trade of electricity with the IEM by applying relevant EU legislation but without the jurisdiction of the European Court of Justice (ECJ), then two areas need particular consideration: a non-domestic dispute resolution mechanism and a broader governance framework.

Any EU-UK dispute resolution mechanism should aim at facilitating the free and fair trade of electricity in a competitive and stable investment environment. Without a binding dispute resolution and enforcement mechanism, there will be a jurisdictional gap and no guarantee agreed rules in a third country will be adhered to.

One existing solution could be the Court of Justice of the European Free Trade Association (EFTA Court) and the EFTA Surveillance Authority used for the EEA Agreement. Other mechanisms to be considered are those for the EU-Switzerland bilateral agreements or the Energy Community Treaty. The lack of a solution to this jurisdictional gap could have the most disruptive near term unintentional impacts, in particular the unintentional split of the Single Electricity Market (SEM) in Ireland and Northern Ireland and the inability to implement any agreement.

Eurelectric supports clear, business oriented arrangements. A dispute resolution mechanism is needed and should be timely, independent and enforceable.

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability



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