





Final Modification Report	At what stage is this document in the process?
<h1>IGT120F:</h1> <h2>Aligning the IGT UNC with licence changes following the UK leaving the EU with a 'No deal'</h2>	<div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div>
<p>Purpose of Modification:</p> <p>Following the triggering of Article 50 and with the potential that the Government is unable to secure a deal on the withdrawal of the UK from the European Union, this modification seeks to amend the IGT UNC to align with the proposed Gas Transporter licence changes proposed by Ofgem which would come effective after the date agreed by Parliament and the EU Commission.</p>	
	<p>Panel consideration is due on 18th October 2019</p> <p>The Panel recommends implementation of this self-governance modification.</p>
	<p>High Impact:</p> <p>None</p>
	<p>Medium Impact:</p> <p>None</p>
	<p>Low Impact:</p> <p>Transporters, Shippers</p>

Contents

1	Summary	3
2	Governance	3
3	Why Change?	4
4	Code Specific Matters	4
5	Solution	4
6	Impacts & Other Considerations	4
7	Relevant Objectives	5
8	Implementation	6
9	Legal Text	6
10	Consultation	6
11	Panel Discussions	8
12	Recommendations	8

Timeline

The Proposer recommends the following timetable:

Initial consideration by Workgroup	N/A
Amended Modification considered by Workgroup	N/A
Workgroup Report presented to Panel	N/A
Draft Modification Report issued for consultation	26 th March 2019
Consultation Close-out for representations	16 th April 2019
Variation Request presented to Panel	N/A
Final Modification Report available for Panel	23 rd April 2019
Modification Panel decision	18 th October 2019



Any questions?

Contact:

Code Administrator



igtunc@gemserv.com



02070901044

Proposer:

Chris Barker (BU-UK)



Chris.Barker@bu-uk.co.uk



01359 245705

1 Summary

What

The UK will leave the European Union (EU) on the date agreed by Parliament and the EU Commission following the triggering of Article 50 on 20th March 2017. Ofgem have released a consultation on proposed licence changes in the face of the UK's exit from the EU and, although the IGT UNC largely complies with these changes there is a need to add additional references in order to comply.

Why

The UK will leave the European Union (EU) on the date agreed by Parliament and the EU Commission following the trigger of Article 50 on 20th March 2017. Ofgem have been working closely with Code Administrators in the build up to the withdrawal date to ensure that all Codes are prepared and would not be operationally affected after the agreed exit date.

Included in this work with Ofgem, was a complete review of the IGT UNC to identify areas of the Code that would may be redundant after the UK leaves the EU or would need additions to maintain compliance, and these were presented to Ofgem at various meetings throughout 2018. Following publication of Ofgem's proposed licence changes the IGT UNC has been able to be scrutinised more closely and it is believed that the Code would be largely compliant with these new licence changes, however, it is advised to introduce a new definition in Section M to comply with Ofgem's new distinction between legacy legislation following the UK's exit.

It is important that these references are introduced to the IGT UNC in order to promote efficient governance of the Code. This also aligns with other industry Codes that are making similar changes in order to comply following the UK's exit.

How

References to European legislation is largely ringfenced to one section of Code and therefore will be straightforward to include this small addition.

2 Governance

Justification for Fast Track Self-Governance Procedures

The Proposer of this modification determines that this should be progressed as a Fast Track change. The modification seeks to add Code to the IGT UNC following changes in legislation. This therefore qualifies as a housekeeping modification only. It is determined that this modification also meets the criteria for Self-governance.

Requested Next Steps

This modification should:

- be subject to fast track self-governance
- proceed to Consultation

3 Why Change?

In 2015 through an Ofgem Significant Code Review Ofgem introduced the concept of a 'European Modification' (IGT066) which could be enacted by Ofgem at any time dependant on changes in legislation within the EU. To date this type of modification has never been raised within the IGT UNC and therefore the section of Code has never been used.

In 2016 the UK held a referendum on the UK's potential exit from the EU and the UK voted to leave the EU with a majority of 52% of the nation's vote. The UK government has proposed a Withdrawal bill, however, the default position would be leaving the EU on 'No Deal' terms if a consensus cannot be reached by Parliament.

Throughout 2018/19 Ofgem have lead discussions on preparing the Codes for a 'No Deal' scenario. The IGT UNC has undergone a thorough review and does not expect there to be any operational impacts on IGT UNC parties in the event that the UK leave the EU under a 'No Deal' scenario. However, Ofgem is keen to ensure that all Codes act and remove any redundant Code or add additional code to comply with licence changes as pragmatically as possible.

Ofgem has carried out proposed licence changes for this scenario and these have been issued to industry through a consultation. These changes look to retain references to the European Commission and therefore the IGT UNC will largely still comply with these changes with minimal changes needed, however, new references have been introduced within the licence consultation to introduce a reference and definition to 'Retained EU Law', an extension of the existing clause for 'European Commission' and the introduction of the EU Exit Regulations 2019.

It is important to include these in the IGT UNC in order to fully comply with these proposed licence changes which will come into effect in the case of a no deal. These additions clearly introduce a 'line in the sand' for European compliance with and retained EU law that may be in effect.

It is proposed that we align the Code to the UNC, which has raised UNC680S in order to introduce additional defined terms on 'legally binding decisions' and 'Retained EU Law'.

4 Code Specific Matters

Technical Skillsets

None.

Reference Documents

[Ofgem Consultation on proposed Gas Transporter licence conditions.](#)

5 Solution

The Proposal is to add the following to the IGT UNC in order to be fully compliant with the proposed licence changes following a 'No Deal' Exit of the EU on the date agreed by Parliament and the EU Commission;

Add the following defined terms:

- **“legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators”**

- “Retained EU Law”

These defined terms are outlined in the legal text section. By adding these defined terms, it allows for all changes needed to comply with the proposed licence changes to be incorporated.

6 Impacts & Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

N/A

Consumer Impacts

None. These changes are purely housekeeping and will have no effect on Consumers.

Cross Code

There will be no cross-code impacts as a consequence of this change, however, we are expecting to see wide spread modifications across all Codes on this issue.

7 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	Identified impact
(A) Efficient and economic operation of the pipe-line system	None
(B) Co-ordinated, efficient and economic operation of (i) the combined pipe-line system; and/or (ii) the pipe-line system of one or more other relevant gas transporters	None
(C) Efficient discharge of the licensee's obligations	None
(D) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation agreements with other relevant gas transporters) and relevant shippers	None
(E) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers	None

(F) Promotion of efficiency in the implementation and administration of the Code	Positive
(G) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators	None

By ensuring that the Code is aligned with the proposed licence changes this will further Relevant Objective F) by promoting efficiency in the implementation and administration of the Code and by promoting good governance. There may also be positive impacts on Relevant Objective C) by carrying out the efficient discharge of the licensee's obligation. Ofgem have put out a consultation on licence changes for all parties' comments which will remove several references to European bodies.

8 Implementation

As this is a self-governance modification the implementation will be the date on which the UK exits the European Union without a 'divorce' agreement and will be determined by the Government's current position with regards to European Union withdrawal discussions.

This implementation may be in a scheduled release or has the potential to be in a special release dependent on the date if and when the UK exits the European Union with a 'No deal'.

9 Legal Text

Text Commentary

The below legal text has been identified as no longer relevant following the UK leaving the EU on the date agreed by Parliament and the EU Commission under a 'No Deal' scenario.

Suggested Text

Part L

"Large Transporter Representative": the individual, if any, from time to time notified to the Code Administrator by the Secretary of the UNC Modification Panel to represent National Grid Gas plc and DN Operators;

"legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators" means any relevant legally binding decisions of the European Commission and/or the Agency, but a binding decision does not include a decision that is not, or so much of a decision as its not, Retained EU Law;

"Member": an individual appointed to the IGT UNC Modification Panel;

"Modification": any Modification of the IGT UNC or, as the case may be, an Individual Network Code, made pursuant to these Modification Rules;

.

.

.

.

.

“Relevant Pipeline User”: for the purposes of the Modification Rules only, in relation to an Individual Network Code Modification Proposal means a Pipeline User which is party to the relevant Framework Agreement by which such Pipeline User becomes bound by the Individual Network Code;

“Retained EU Law” has the same meaning as that given by Section 6(7) of the European Union (Withdrawal) Act 2018;

“Review”: the consideration and discussion of any matter or any Modification Proposal;

10 Consultation

Panel invited representations from interested parties with the Consultation closing on 16th April 2019. One representation was received from BUUK following a full 15-day consultation period.

Representations were received from the following parties:

Organisation	Response	Relevant Objectives	Key Points
BUUK	Qualified Support	F - positive	<ul style="list-style-type: none"> We support the implementation of this change proposal as it will ensure that the IGT UNC is effectively aligned with licence condition changes. However, because of the way Brexit is developing, this is dependent on the timescales involved to account for any potential changes in these deadlines. It is agreed that the change should go through a fast track self-governance process. There are no impacts or costs foreseen worth of note by this change as it is primarily a housekeeping change to ensure the Code is updated to take into account political developments. It is agreed to have the implementation date as June. However, if there is a change to the political developments then this should change accordingly. The proposed legal text is deemed sufficient to achieve the purpose of the modification.

The final decision for this modification is due at the May Panel Meeting which is due to be held on 17th May 2019.

The Code Administrator recognises that the implementation of this modification will be dependent on the Governments final position in relation to the UK exiting the EU without a deal and the implementation of new licence conditions from Ofgem.

The Ofgem EU Exit Team has advised the Code Administrator to keep modifications relating to UK exit of the EU under review until further notice.

11 Panel Discussions

Discussion

The Chair informed Panel members that some small amendments had been made to the Solution and legal text elements of this modification to remove its dependency on UNC680 – UNC Changes as a Consequence of a ‘no deal’ United Kingdom Exit from the European Union. This allows the modification to be approved for implementation if and when a ‘no deal’ United Kingdom exit from the European Union occurs.

The Chair asked Panel members if they were satisfied that the amendments made were non-material of which they agreed.

Consideration of the Relevant Objectives

All Panel members agreed that this Modification meets the criteria set out in Objective F and the published criteria for Self-Governance modifications.

Determinations

The vote was carried out with three Pipeline Operators and two Pipelines Users. The Panel agreed by unanimous vote that this modification should be implemented.

Panel members agreed that this modification should be implemented but will be the date on which the UK exits the European Union without a ‘divorce’ agreement and will be determined by the Government’s current position with regards to European Union withdrawals discussions.

This modification is subject to a 15-day appeal window as per the Self governance process.

12 Recommendations

Panel Determination Self-Governance

Members agreed:

- that Modification 120F should be implemented