



**UNITED KINGDOM – MEASURES RELATING TO THE ALLOCATION OF CONTRACTS  
FOR DIFFERENCE IN LOW CARBON ENERGY GENERATION**

**REQUEST FOR CONSULTATIONS BY THE EUROPEAN UNION**

The following communication, dated 28 March 2022, from the delegation of the European Union to the delegation of the United Kingdom, is circulated to the Dispute Settlement Body in accordance with Article 4.4 of the DSU.

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My authorities have instructed me to request consultations with the Government of the United Kingdom of Great Britain and Northern Ireland (United Kingdom) pursuant to Articles 1 and 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994) with regard to the inclusion of United Kingdom content in the context of the allocation of Contracts for Difference (CfD) in low carbon energy generation.

The United Kingdom incentivises low carbon energy generation projects, mainly offshore wind, through the use of CfD. CfD aim at incentivising investments in renewable energy by providing developers of projects that have high upfront costs with a predictable income that protects them from volatile high wholesale prices. In particular, CfD make low carbon energy generation projects commercially viable by covering the difference between the cost of low carbon electricity generation and the regular market price for electricity through the payment of a subsidy.

Three rounds of allocation of CfD have been conducted thus far in 2015, 2017 and 2019. The fourth round, which opened for applications on 13 December 2021 and is expected to be allocated around July or August 2022, incorporates United Kingdom local content as a criterion for the eligibility of applicants for all low carbon electricity generation projects of 300 MW or more and for the effective payment of the subsidy to successful applicants for such projects.

The measures at issue, including their adoption, maintenance, application and administration by the United Kingdom, through its actions or omissions, in law and in fact, are in particular:

- Making United Kingdom local content a criterion for the eligibility of applicants to participate in the allocation of CfD; and
- Making attainment of the level of United Kingdom content as committed in the applicants' initial eligibility application a criterion for effective payment of the subsidy.

These measures are put in place and evidenced by, and are implemented and administered through, *inter alia*, the following legal and other instruments, considered alone and in any combination:

- Policy paper "Offshore wind Sector Deal - one year on" Updated 4 March 2020, available at <https://www.gov.uk/government/publications/offshore-wind-sector-deal/offshore-wind-sector-deal-one-year-on>.
- Press release "New plans to make UK world leader in green energy", 6 October 2020, available at <https://www.gov.uk/government/news/new-plans-to-make-uk-world-leader-in-green-energy>.

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- "Contracts for Difference for Low Carbon Electricity Generation. Consultation on New Supply Chain Plan Questionnaire", Department for Business, Energy & Industrial Strategy, January 2021, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/952198/cfd-supply-chain-plan-questionnaire-consultation-document.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/952198/cfd-supply-chain-plan-questionnaire-consultation-document.pdf).
  - "Supply Chain Plan Guidance for projects of 300MW or more applying for a Contract for Difference", Department for Business, Energy & Industrial Strategy, July 2021, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/999779/scp-guidance-ar4.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/999779/scp-guidance-ar4.pdf).
  - "Contract for Difference. Supply Chain Plan. Your Questions and Answers. 28 September 2021" available at <https://www.cfdallocationround.uk/sites/default/files/2021-10/28092021%20CFD%20SCP%20Q%20and%20A.pdf>.
  - "Policy paper. Contracts for Difference", Department for Business, Energy & Industrial Strategy, updated 13 December 2021, available at <https://www.gov.uk/government/publications/contracts-for-difference/contract-for-difference>.
  - "Supply Chain Plan Questionnaire. Submission Template. Allocation Round 4" linked to at <https://www.gov.uk/government/publications/contracts-for-difference-cfd-allocation-round-4-supply-chain-plan-questionnaire-and-guidance> and available as a document at [https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fgovernment%2Fuploads%2Fsystem%2Fuploads%2Fattachment\\_data%2Ffile%2F999817%2Fcf-d-scp-questionnaire-submission-template.odt&wdOrigin=BROWSELINK](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fgovernment%2Fuploads%2Fsystem%2Fuploads%2Fattachment_data%2Ffile%2F999817%2Fcf-d-scp-questionnaire-submission-template.odt&wdOrigin=BROWSELINK).
  - "Supply Chain Plan questionnaire: submission tables" available at [https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fgovernment%2Fuploads%2Fsystem%2Fuploads%2Fattachment\\_data%2Ffile%2F999818%2Fcf-d-scp-questionnaire-submission-tables.ods&wdOrigin=BROWSELINK](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fgovernment%2Fuploads%2Fsystem%2Fuploads%2Fattachment_data%2Ffile%2F999818%2Fcf-d-scp-questionnaire-submission-tables.ods&wdOrigin=BROWSELINK).
  - "The Electricity Market Reform (General) Regulations 2014 (S.I. 2014/2013)", as amended, available at <https://www.legislation.gov.uk/ukSI/2014/2013/contents/made>.
  - "The Contracts for Difference (Allocation) Regulations (S.I. 2014/2011)", as amended, available at <https://www.legislation.gov.uk/ukSI/2014/2011/contents/made>.
  - "Industrial Strategy. Offshore Wind Sector Deal", HM Government, 2019, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/790950/BEIS\\_Offshore\\_Wind\\_Single\\_Pages\\_web\\_optimised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790950/BEIS_Offshore_Wind_Single_Pages_web_optimised.pdf).
  - "Methodology for Measuring the UK content of UK offshore wind farms, for UK Government, Department of Energy and Climate Change, RenewableUK and The Crown Estate", BVG Associates, May 2015, available at [https://cdn.ymaws.com/www.renewableuk.com/resource/resmgr/Publications/Guides/uk\\_content\\_methodology.pdf](https://cdn.ymaws.com/www.renewableuk.com/resource/resmgr/Publications/Guides/uk_content_methodology.pdf).
  - Any other instruments through which the United Kingdom implements and administers the measure at issue, including letters, circulars or other documents whereby requests are made, decisions are communicated and/or instructions are imparted; whether between United Kingdom authorities or to individual or groups of companies directly or indirectly involved in the fourth allocation round of CfD for low carbon energy generation projects, mainly offshore wind, as described above.

This Request also covers any annexes, appendixes, attachments or schedules to the instruments listed above, as well as any amendments, supplements, replacements, renewals, extensions, implementing measures or any other related measures.

The measures at issue described above appear to be inconsistent with the United Kingdom's obligations under the covered agreements, in particular Article III:4 of the GATT 1994, inasmuch as, by incentivising applicants to commit to and implement an ambitious percentage of United Kingdom content in the context of the allocation of CfD, they accord less favourable treatment to imported goods than to like domestic goods.

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The measures relating to the allocation of CfD identified in this Request appear to nullify or impair the benefits accruing to the European Union directly or indirectly under the covered agreements. The European Union reserves the right to address additional measures and claims, including under other provisions of the covered agreements regarding the above matters during the course of the consultations.

The European Union looks forward to receiving the United Kingdom's reply to this request and expresses its readiness to consider a mutually convenient date and place for the consultations.

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