A&D LIST
DRAFT

EFET
European Federation of Energy Traders

EFET Legal Committee Meeting Q3/2023

21 & 22 September 2023

Hosted by EDF Trading in London, held in a hybrid format

Participants List
(present in person)

1.	Libuse Jeremiasova	Alpiq	22.	Suzana Hakobjan	Ezpada
2.	Andrew McArthur	Axpo	23.	Maren Lahl	Freepoint
3.	Simon Bachmann	Axpo	24.	Marcelo Alvarez	Gunvor
4.	Virginie Sur	BP	25.	Rosana Bovia	Iberdrola
5.	Veronica Gorbounova	CCI (day 2)	26.	Nevena Totolakova	MBCL
6.	Fedor Matezky	Centrica	27.	Teresa Gutiérrez Chacón	Pavillion Energy (day 1)
7.	Jan Michek	CEZ	28.	Thomas Bergmann	RWE
8.	Alexander Griffiths	Citi Bank (day 2)	29.	Renata Ryder	Shell
9.	Ashley Hofman	EDF Trading	30.	Lubomir Antal	Slovenské elektrárne
10.	Doug Gessell	EDF Trading	31.	Natalie Downing	TrailStone (day 1)
11.	Dunia Amen	EDF Trading	32.	Tirupa Joshi	Trafigura
12.	Peggy Morrison	EDF Trading	33.	Fabian Ganninger	Vattenfall
13.	Aygul Adamson	EFET	34.	Irene Fenyösy	Verbund
14.	Jerome Le Page	EFET (day 1)	35.	Fatima Semlal	Vitol
15.	Michaela Duve	EFET		**Guest speakers:**	
16.	Sonia Auguscik	EFET	36.	Cristina Ludena	CFLudena (day 1)
17.	Annabel Dearing	EnBW (day 1)	37.	Maria Popova	EFET (day 1)
18.	Benjamin Dargnies	Engie	38.	Mark Copley	EFET (day 1)
19.	Matej Komora	EP Commodities	39.	Richard Stokes	EDF Trading (day 1)
20.	Justyna Pantelides	ESB	40.	Peter McIntyre	EDF Trading (day 1)
21.	Natalie Skacelova	Ezpada	41.	Peter Church	Linklaters (day 2)

Furthermore, about 40 people dialled into the meeting, including two guest speakers: Peter Zaman (HFW law firm, day 2) and Gerd Stuhlmacher (Luther law firm, day 2).

General remark: slides from day 1 & day 2 along with additional meeting materials are available at the dedicated EFET page: https://efet.org/home/documents?id=707.

Meeting Day 1

1. Opening and approval of the last A&D list (Michaela Duve, EFET)

Michaela Duve opened the meeting and introduced the agenda. Members were asked if they had any comments or remarks on the minutes of the last Legal Committee meeting held in Amsterdam on June 1 & 2, 2023.

Decision: the A&D list from the previous Legal Committee meeting, held in Amsterdam (in a hybrid format) on June 1 & 2, 2023 was unanimously approved by members, subject to no comments.

2. Report from the EFET board meeting and update on the EFET initiatives (Mark Copley, EFET)

Mark Copley provided a report on the recent EFET Board meeting, held on September 6 & 7, 2023. The following key points were highlighted:

- Ongoing efforts to professionalise EFET and improve processes. Several areas are undergoing changes, with governance being one of them. EFET's bylaws are currently under revision, and one of the planned changes is the implementation of a process for confirming Committee chairs in their respective posts. It is crucial to ensure a solid foundation with clear operating rules for EFET, which require periodic updates. This principle also applies to the Terms of Reference of each Committee, which should be available to members and regularly updated — it was noted that the working procedures of the Legal Committee date back to March 2005 and require refreshing.

Action: Legal Committee Secretariat to review and update the Terms of Reference (Mission Statement & Working Procedures of the EFET Legal Committee, version dated March 22, 2005) - a revised document, when available, should be sent to members for comments.

- Improving administration. In the past, EFET distribution lists were quite extensive and included external service providers. It has been decided to discontinue this practice, with each Committee now being requested to rigorously limit mailing lists to EFET members. Both mailing lists and meetings are exclusive to EFET members, with the exception being the presence of an external service provider when mandated as a guest speaker or mandated to support EFET on a specific subject. One of the external guest speakers suggested that EFET explore the possibility of establishing a separate membership category for service providers. This concept is already implemented in ISDA and may potentially work well within EFET.

- Website development and improvement. EFET acknowledges recent IT challenges faced by its members, including login issues. In response, EFET is actively engaged in a project to construct an entirely new website, set to launch in Q1 2024. Nevertheless, EFET remains committed to improving the existing website to resolve any ongoing problems.

- Defining a clear identity and rebranding. During the board meeting, discussions revolved around EFET's identity, core values, and unique selling points. These discussions hold significant importance as EFET approaches board elections and considers rebranding. The association recognises the significance of next year, marking the 25th anniversary of EFET. This milestone presents an opportune moment to reintroduce EFET to a broader audience, with the aim of effectively positioning the organisation within its industry.

Call for nominations to the EFET Board 2023: EFET regular member companies are invited to nominate persons suitable for election to the EFET Board. For further information, please see the relevant notice at: www.efetmembers.org. If you know of suitable candidates who are interested, please contact Mark Copley, CEO of EFET (m.copley@efet.org). This year's Annual General Meeting (AGM) will be held during the afternoon of 14 November 2023, entirely online. The agenda includes presentations of EFET achievements in the last year and the election of the five (5) new Board members for a period of two years (2024-2025).

3. EU carbon border adjustment mechanism (CBAM) and its implications for energy traders (Maria Popova, EFET; Richard Stokes and Peter McIntyre, EDF Trading)

Introduction to CBAM and implementation timeline: Maria Popova began by introducing the EU Carbon Border Adjustment Mechanism (CBAM). She explained that CBAM is designed to address carbon leakage by imposing a carbon price on certain imported goods. Scope includes electricity and hydrogen (in addition to other sectors such as iron and steel, cement, fertilisers, and aluminium). CBAM is set to start with a transitional period (October 2023 – December 2025) to allow businesses to adapt. During this phase, companies are obligated to register, and to report imported volumes and the associated emissions. Full implementation is planned for January 2026.

Reporting obligations during the transitional period: During the presentation, Maria focused on the impact on energy traders, especially, from the perspective of electricity imports from the UK, Switzerland and the Energy Community Contracting Parties. Even though the transitional period is literally around the corner, there is still a very long list of open issues and many reporting aspects prove to be challenging for affected companies. EFET is in contact with relevant stakeholders, including European Commission, and tries to clarify remaining implementation questions.

Note: Maria Popova (EFET) compiled a list of open implementation issues to be shared with the European Commission ahead of the webinar planned for September 28, 2023. For more details and helpful documents around CBAM implementation, see the dedicated EU website. If you have any questions or would like to get involved in EFET discussions in this area, please reach out to Maria Popova (m.popova@efet.org).

Getting prepared for CBAM – customs considerations: Richard Stokes and Peter McIntyre from EDF Trading took the stage to discuss customs considerations. Members discussed how to properly classify the carbon certificate to be paid under CBAM while fully implemented. There has been some confusion around its nature, but it is clear that it is not a tax within the meaning of tax legislation. It was noted that tax wording, which is included in EFET documentation (see §14 of EFET Electricity and Gas General Agreements, especially in the perspective of wording for new taxes and termination for new taxes), is very broad and it is worth verifying whether CBAM certificates do not fall within its scope.

Action: Legal Committee Secretariat to instruct the review of the tax definition in the EFET Electricity and Gas General Agreements (§14) to assess the potential impact on transactions concluded under EFET documentation if CBAM certificates are deemed to fall within the EFET tax definition.

4. EFET Templates Development and Maintenance WG – reports on various initiatives

- **Review of the EFET General Agreements: presentation of the survey results, discussion and next steps – Michaela Duve, EFET**

At the kick-off meeting of the Task Force Review of EFET General Agreements, held in Amsterdam on June 2, 2023, the discussion did not reach a conclusive decision, and the meeting attendance did not fully represent the Legal Committee.

Consequently, it was decided that the Legal Committee Secretariat would conduct a survey to gauge the potential need for a review of the EFET General Agreements. Recognising the significance of this matter, it was agreed to share the poll with all Legal Committee members. Each member company was granted one vote, and the poll remained open for a month and a half, concluding on August 31, 2023. Michaela Duve presented the survey results.

- In total, thirty-one (31) member companies participated in the survey.
- Eighty-seven percent (87%) of voting member companies expressed support for the need to revise the EFET General Agreements.
- The majority of those in favour voted for "small-size" revisions, which includes the incorporation of amendments published by EFET (e.g., VAT, Trade Restriction, IBOR), correction of spelling errors (e.g., in EFET Electricity General Agreement: TWN definition), and certain clauses that are established in the market (e.g., set-off clause, Default under Specified Transaction, Change of Control).
- Fifty-nine percent (59%) of voting member companies supported reconsidering the alignment of the EFET Gas and Electricity General Agreements.
- Implementation of the revised templates will involve publishing a Ratification Letter and/or a Change Letter, although the final decision on this matter will be made later.
- By a very small margin, however, the majority decided not to revise the Credit Support Annex to the EFET General Agreements.
- The vast majority of voters expressed support for the development of an EFET library of example clauses.

Here is just a summary, to have a full picture of exactly what the results were, including specific percentages and vote distribution, kindly refer to the slides from the meeting.

Action: Legal Committee Secretariat is tasked with organising a work stream to: (1) review the EFET General Agreements in the scope of "small size" revisions; (2) discuss alignment between Gas and Electricity General Agreements; and (3) develop the EFET clause library. For any questions or further information, members are encouraged to reach out to Michaela Duve (m.duve@efet.org, with a copy to LCsecretariat@efet.org). Task Force meeting is planned in October - a poll will be sent out to choose a convenient date.

- **AVB Appendix: drafting approach and discussion (Aygul Adamson, EFET and Cristina Ludena, CFLudena)**

Aygul Adamson presented a brief report on the progress of the EFET document regulating AVB trading. This initiative was launched following Legal Committee meeting in February 2023 through a collaborative task force consisting of interested members of the Legal Committee and the Iberian Gas Group.

During the summer, members had the opportunity to express their support for one of the two drafting options offered. A clear preference emerged for the standalone EFET AVB Appendix. The initial draft was distributed in August and has been under review since, with members providing comments during this period. The key areas of focus include remedies for failure to deliver or accept the contract quantity, and the payment cycle for AVB transactions.

Cristina Ludena joined the meeting to provide a general introduction to AVB trading in Spain, including regulatory update, and to explain the drafting approach in more detail.

Action: the drafting process is now approaching its conclusion, and members are invited to submit their final comments by October 6, 2023. In case of interest in this task force and/or questions, please get in touch with Aygul Adamson (a.adamson@efet.org, with a copy to LCsecretariat@efet.org).

- **Termination of the Zeebrugge Appendix: published bilateral change letter and open EDRS ratification (Aygul Adamson, EFET)**

Aygul Adamson reported that, in the light of changes in the gas market in Belgium (specifically, merger of the existing ZTP Physical and ZTP Notional Trading Services into a single ZTP Trading Service effective from October 1, 2023), EFET has created and published the industry documentation to terminate the EFET Zeebrugge Appendices (Version 1.0, December 2017) and migrate the respective trades to the scope of the EFET Gas General Agreement.

Note: EFET documentation, which permits the termination of the Zeebrugge Appendices (Version 1.0, December 2017), has received overwhelming support from EFET members. These documents are now available for execution through the following links: Change Letter and EDRS Ratification Letter.

- **Update of the EMIR Risk Mitigation Technique Agreement (Sonia Auguscik, EFET)**

Sonia Auguscik reported that, in light of the changes introduced by EMIR REFIT (Regulation EU 2019/834), there is a need to make some minor adjustments in the EMIR Risk Mitigation Technique Agreement (Version 1.1 / September 2013) standard, specifically with regard to the counterparty status, to ensure compliance with current regulatory requirements.

Of particular note, EMIR REFIT has revised the classification of counterparty status, introducing new consequences in terms of the categorisation of counterparties for those who do not calculate their positions. This aspect has proven to be particularly significant in practice for Non-Financial Counterparties (NFCs), who, prior to REFIT, were able to consider that they were NFC- even though they chose not to calculate and/or document their positions. Further information on this topic can be accessed on the ESMA website. In case of interest from Legal Committee members, Anya Bissessur, Chair of the EFET EMIR WG, has agreed to host a Q&A session to explain the changes introduced under EMIR REFIT and to explain the drafting reasoning behind the proposed amendments.

Updated draft of the EFET EMIR Risk Mitigation Technique Agreement, with suggested modifications in §3 of the Election Sheet, is in circulation in the EFET Templates Development & Maintenance Working Group (initial deadline for feedback: September 22, 2023).

Action: Legal Committee Secretariat to extend the deadline for commenting on the updated draft and sending your questions. In case of interest in this drafting initiative, please get in touch with Sonia Auguscik (s.auguscik@efet.org, with a copy to LCsecretariat@efet.org).

Meeting Day 2

5. Fit for 55 and its impact on the current industry EU carbon trading documentation (Peter Zaman, Partner, HFW law firm)

Peter Zaman delivered a comprehensive overview of the "Fit for 55" package, focusing on its implications for the EU ETS and the current EFET Allowances Appendix. The central question posed to members was whether, in light of these recent "Fit for 55" changes, it is justifiable to consider a review.

The "Fit for 55" package introduces amendments to the Registry Regulation and the EU ETS Directive, giving rise to various secondary legislation components to make the reform happen. Some of these legislative processes are still ongoing. Notably, the EU ETS will expand to cover new sectors, including shipping. Additionally, a significant change to the market dynamics involves shifting the free allocation, previously occurring by February 28, to June 30. This coincides with the adjustment of the compliance (reconciliation) deadline from April 30 to September 30, which will impact allowance trading practices.

Potential revisions to the EU ETS documentation include a range of considerations, such as amending the Reconciliation Deadline, categorising different types of Allowances, removing references to the European Union Transaction Log, distinguishing between account types, updating the payment cycle, and exploring potential simplifications related to the Excess Emissions Penalty.

Peter also briefly touched upon the Swiss EU Linking Agreement, which became effective on January 1, 2020. This prompts the question of why Swiss allowances are not more widely used and traded, despite presenting attractive arbitrage opportunities in terms of currency and price differentials. It appears that this potential was largely overlooked, possibly due to a lack of supporting documentation, compounded by the circumstances of the pandemic. However, with its extension to the shipping industry, it may gain traction among Swiss-based shipping market players. The question for EFET members is whether they see a need to include this in the industry documentation.

Action: suggestions for potential changes in the EFET documentation, as signalled in the presentation, will feed further discussions - Legal Committee Secretariat to set up a dedicated task force to review the EFET Allowance Appendices. In case of interest in this drafting initiative, please get in touch with Michaela Duve (m.duve@efet.org, with a copy to LCsecretariat@efet.org).

6. Proposed EU Directive Harmonising Insolvency Law: EFET advocacy position (Gerd Stuhlmacher, Partner, Luther law firm)

Sonia Auguscik gave a short update on the progress of the EFET work related to the proposed EU Directive Harmonising Insolvency Law. The ISDA discussion paper was in circulation for over a month. Some members flagged the need for an external review to ensure that EFET interests are adequately addressed. To that end, it was decided to engage Gerd Stuhlmacher from Luther Law Firm.

Gerd joined the meeting to briefly elaborate on the proposed Directive and the main concerns that have been raised by Legal Committee members so far, namely (1) assignments given without prior approval; (2) potential negative impact of replacing Article 7(6) of the Restructuring Directive; (3) definition of "other close-out netting provisions" being too narrow.

More detailed analysis will be available in the first week of October and shared with the Working Group members. This input will undergo further discussion and alignment between the Legal and Market Supervision Committees.

Action: further discussions to continue in the Legal Opinions Review Working Group; Legal Committee Secretariat to align the position with the EFET Market Supervision Committee. In case of questions and/or comments, please get in touch with Sonia Auguscik (s.auguscik@efet.org, with a copy to LCsecretariat@efet.org).

7. Legal opinions: status quo review and new legal opinions (Sonia Auguscik, EFET)

Sonia Auguscik presented the latest overview of the legal netting opinions (instruction cycle 2022/2023), highlighting those recently finalised and published: the legal opinions for Belgium (June 19, 2023), for Bulgaria (June 12, 2023) and for Slovakia (August 21, 2023). The long-awaited opinion for Italy is pending, with the draft having been reviewed by EFET members – what is currently expected is a revised version that matches the scope of the instruction letter and addresses all open questions. Sonia also reported on the latest legal reforms relating to close-out netting.

- Slovenia: the legislative changes, implementing the Restructuring Directive, were adopted by the Parliament in September 2023. EFET was in contact with local advisors and member companies based in Slovenia, and the impact on energy traders turned out to be not as severe as originally expected. EFET sent a letter to national shareholders supporting the points made by ISDA and asking for clarifications. Further legal reforms are expected later this year.
- Slovakia: a new legislative process concerning amendments to the insolvency law for corporates is currently under consideration. The Ministry of Finance is responsible for developing the new draft.

Update: in the meantime, after receiving further intelligence and talking to member companies, EFET & ISDA sent a support letter for reform of netting legislation in Slovakia (repeating the arguments from the previous support letter of September 5, 2022).

Note: interested members are invited to contact Sonia Auguscik (s.auguscik@efet.org, with a copy to LCsecretariat@efet.org) and share intelligence on the national insolvency developments on a continuous basis - this allows us to support reforms in insolvency laws at an early stage and, in the long run, make national netting legislation more friendly to EFET members.

Sonia also gave an update on the projects currently underway in the Legal Opinions Review Working Group:

- review of the netting instruction letter – drafting session in the first half of October;
- poll on priority jurisdictions – vote by October 13, 2023;
- review of the MNA/CPMA instruction letter – work to get started.

To briefly summarise, potential revision of the instruction letter includes the following drafting suggestions: review of the appendix B, precise instruction wording for green certificates, traffic light system for material questions, separate annex for recommended wording, last but not least – focus on energy traders, not regulated financial institutions). These discussions will continue at the Legal Opinions Review Working Group level.

Action: members are invited to select the priority jurisdictions for further legal netting opinion updates. The poll on priority jurisdictions is open until October 13, 2023. Each member company can cast one vote and select a maximum of three jurisdictions. This poll applies to jurisdictions that are not covered by the current 2022/2023 update cycle;

and the number of new instructions will depend on the chosen jurisdictions and the available budget.

Note: the Netherlands is not included in the poll as it has already been identified as a priority jurisdiction due to recent legislative changes (in accordance with the decision of the members taken during our Legal Committee meeting in Amsterdam on June 1 and 2, 2023). The updated overview of the legal opinions (the second table indicates the netting opinions that were last updated in 2021 or earlier and were not included in the 2022/2023 update cycle) is available at the EFET page: https://efet.org/home/documents?id=676.

Note: drafting session, the purpose of which will be to discuss the revised netting instruction letter, is planned in the first half of October – a poll will be sent out to choose a convenient date. In case of questions, please get in touch with Sonia Auguscik (s.auguscik@efet.org, with a copy to LCsecretariat@efet.org).

8. Everything you want to know about ChatGPT – uncovering the risks, discussing the challenges and problems faced by our members (Peter Church, TMT Counsel, Linklaters)

Members expressed interest in an educational session about ChatGPT/AI, in particular about the risks and legal challenges related to it - to address this topic, Peter Church have a presentation introduction to explore ChatGPT, its associated risks, and the challenges faced by members.

Peter started with a general introduction to AI and how popular it is now and explained what the Large Language Model (LLM) is, how it works in practice and what are its limitations. During the presentation, it was mentioned that AI can have various applications and use cases, also in the legal or trading context, but it is necessary to assess which applications are safe and useful, and which potentially cross the so-called "creepy line". Definitely, AI no longer exists in a vacuum and there are many legal issues and laws to consider, ranging from data privacy and IP rights to specific AI regulations (e.g., the new EU digital reform package including draft of the AI Act - for comparison, currently UK is taking a very "light touch" approach to AI). Finally, Peter also touched on the topic of governance and risk assessment.

Action: should members have an interest in this topic and other educational sessions around AI, please contact Michael Duve (m.duve@efet.org, with a copy to LCsecretariat@efet.org).

9. Update reports from the Legal Committee Working Groups

- **Hydrogen Working Group (Michaela Duve, EFET)**

Michaela Duve provided a concise report on the activities of the Hydrogen Working Group.

- Hydrogen Certificates Single Trade Agreement: after sending the draft agreement with a renewed request for comments, it became evident that there is insufficient support to continue with the drafting initiative in its current format. There seems to be less interest in hydrogen certificates trading.

- Brainstorming session: members indicated greater interest in trading contracts for physical green hydrogen and/or ammonia products. The next step is to organise a brainstorming call for Working Group members to discuss expectations and needs and to further explore areas of interest.

- Joint initiative with Hydrogen Council: EFET received an invitation to participate as a sounding board for the template contract that the Hydrogen Council is currently developing (cross-border ship-delivered hydrogen delivery contract). EFET will also join the workshop to review the contract. This initiative received strong support from the Working Group members. The draft contract will be shared around mid-October, and the workshop is scheduled for the end of October 2023.

Action: brainstorming Working Group session is planned in the first half of October – a poll will be sent out to choose a convenient date. In case of questions, please get in touch with Michaela Duve (m.duve@efet.org, with a copy to LCsecretariat@efet.org).

- **Digitalisation Working Group (Michaela Duve, EFET)**

Michaela Duve provided an update on the Faster Settlement initiative. EFET Operations Committee held a Faster Settlement workshop on September 20, 2023, to delve into details, walk through examples and resolve remaining operational issues. Some of the questions received from Task Force members pertained to situations where the index for a transaction becomes available only after the delivery month or when delivered quantities can be determined only after a given delivery month. These operational aspects are currently under discussion and resolution. Once there is clarity, the Task Force will commence the drafting process.

Action: this work continues in a dedicated Task Force – interested members of the Legal Committee are encouraged to reach out to Michaela Duve (m.duve@efet.org, with a copy to LCsecretariat@efet.org).

- **Biogas Working Group (Aygul Adamson, EFET)**

Aygul Adamson reported on the launch of the EFET Biogas Certificates Single Trade Agreement (STA), jointly developed with CEGH GreenGas Platform – it has been electronically endorsed and published, along with the accompanying Guidance Note, on the EFET website.

Aygul also provided an update on the biogas market in Austria, where CEGH is working on technical improvements to integrate the EFET Biogas Certificates STA agreement into the GreenGas Platform, to ultimately increase the liquidity. CEGH is also actively seeking connections with other biogas hubs. Additionally, there have been regulatory and legislative changes in the Austrian market, including recent amendments to the national gas labelling ordinance. There are developments in France, where the EEX, appointed by the French

Ministry, is set to launch the biogas GO registry on October 1, 2023, taking over from the French gas distributor GrDF.

As a next step, Aygul plans to distribute a questionnaire in the Biogas Working Group to gain a better understanding of members' areas of interest and expectations regarding biogas trading, including anticipated trade scenarios.

Action: questionnaire is to be distributed in mid-October in the Biogas Working Group – for any questions, please get in touch with Aygul Adamson (a.adamson@efet.org, with a copy to LCsecretariat@efet.org).

10. AOB and scheduling next Legal Committee meeting

- US sanctions and ICE contracts: one member company raised concerns about ICE contracts requiring a declaration of compliance with the US sanctions system. This raises legal questions on several fronts. Firstly, it appears to potentially conflict with the EU Blocking Regulation which prohibits EU persons from complying, directly or indirectly, with certain US sanctions. Secondly, for companies based in Germany, similar restrictions also stream from national law, as the German Foreign Trade and Payments Ordinance prohibits boycott declarations. Finally, there is a court decision by the OLG Hamburg from October 14, 2022, related to the EU Blocking Regulation and §134 German Civil Code.

Action: members to internally assess whether this issue raises any concerns and advise on whether EFET should take any action in this regard. This may include EFET to investigate this further and get a legal opinion on it, and/or EFET to contact ICE and get their reasoning. For full context, here are the examples of the ICE contracts containing the discussed declaration of compliance with US sanctions: ICE Data Services and Software Services Agreement and ICE Internal Distribution Market Data Agreement. Feedback is requested within 3 weeks, i.e., by October 13, 2023, to Michaela Duve (m.duve@efet.org, with a copy to LCsecretariat@efet.org).

- Control and Profit Transfer Agreements (CPTA) as Credit Support Documents: there have been some legal questions surrounding the enforceability of CPTA as collateral, triggered by the recent BMP Greengas insolvency. The interesting aspect is that the controlled affiliate, BMP Greengas, filed for an insolvency proceeding (Schutzschirmverfahren) despite having a solvent ultimate parent. This case, according to legal commentary, is only of a theoretical nature. It seems that in such a situation, the CPTA is only suspended but not terminated, with the consequence that a creditor has no direct statutory claim against the controlling parent for credit support.

Action: members to internally evaluate whether this issue raises any concerns and advise on whether EFET should seek further clarification on this matter and obtain legal opinion on how to interpret the recent developments. Feedback is requested within 3 weeks, i.e., by October 13, 2023, to Michaela Duve (m.duve@efet.org, with a copy to LCsecretariat@efet.org).

- French gas market access: during the last Legal Committee meeting, the Secretariat was alerted to potential issues in France in 2024 regarding the recognition of licenses of non-EU registered companies. The French Energy Code states that the gas supply license holders have until March 2024 to comply with the requirement that the supply (and trading) operations must be conducted from "a country that is party to an agreement with equivalent effect to the EU Treaty/EEA Treaty (with France/the EU)". The primary question is whether UK-based companies could use this exemption on the basis of the Brexit deal, i.e., the EU-UK Trade and Cooperation Agreement (TCA), until 2026.

Action: Legal Committee Secretariat to further investigate this matter and verify the understanding of the legislation, potentially reaching out to DGEC for clarification. The goal is to ensure that TCA can be considered as an equivalent, granting the UK-based companies an exemption until 2026. If member companies have any intelligence in this area, they are asked to contact Aygul Adamson (a.adamson@efet.org, with a copy to LCsecretariat@efet.org).

Save-the-date: the next Legal Committee meeting will be held on December 14-15, 2023, in Dusseldorf, hosted by Uniper. Members are invited to share their agenda suggestions.

Reminder: earlier this year, the Legal Committee underwent a reorganisation aimed at streamlining operations and achieving greater efficiency. Consequently, the following legal Working Groups were established: EFET Templates Development & Maintenance WG; PPA and Electricity WG; Biogas WG; Hydrogen WG; LNG and Natural Gas WG; Contract Digitalisation WG; Legal Opinions WG; and Support and Cross-Committee Cooperation. Members can sign up for the workstream(s) of their interests via the registration link.