



New launch of Offshore Wind Tenders with attractive State Aid Framework in Denmark

Introduction

Denmark has reaffirmed its position as a global leader in offshore wind with a landmark political agreement reached on 19 May 2025 (“the Agreement”) setting the stage for the tendering of three major offshore wind farms commencing in the autumn of 2025.

With a combined minimum capacity of 3 GW and a robust State Aid framework, the new tender model is designed to attract both established and new market participants. The framework offers long-term price certainty, significant risk mitigation, and a strong focus on sustainability and social responsibility in an effort to accommodate previous market concerns. For offshore wind developers and investors alike, this represents a unique opportunity to participate in one of Europe’s most ambitious renewable energy expansions.

In this newsletter, we will touch on the main features of the Agreement and some key considerations for relevant stakeholders contemplating to participate in the tenders.

The Agreement

Although the subsequent and final legislation may clarify or even deviate to some extent from what is expressed in the Agreement - the devil being in the details - we shall summarize below the key features of the new framework as currently envisioned in the Agreement.

Scope and Timeline

The Agreement clarifies the location of the envisioned offshore wind farms, the scope of the tendered projects, and relevant deadlines:

- **Three Offshore Wind Farms:** The Agreement covers the tendering of prospective offshore wind farms at the location of respectively Nordsøen Midt, Nordsøen Syd, and Hesselø. Each of these offshore wind farms must be established with a minimum capacity of 1 GW.
- **Overplanting** is permitted in the North Sea areas (no upper limit in principle, however subject to timely completion of the project), and up to 1.2 GW at Hesselø implying that potential bidders may install additional capacity beyond the 1 GW minimum requirement. However, there is no guaranteed access to the public grid granted to the overplanting capacity. In addition, it is also unclear whether any chosen additional capacity (overplanting) will equally benefit from the CfD State Aid scheme or whether this scheme is confined to the minimum capacity.
- **Tender Schedule:** All three tenders will commence in the autumn of 2025. Bid deadlines are expected in the spring of 2026 for Nordsøen Midt and Hesselø, and in the autumn of 2027 for Nordsøen Syd.
- **Commissioning Deadlines:** The Nordsøen Midt and Hesselø sites must be operational by 2032, and Nordsøen Syd by 2033, with flexibility for earlier completion.

The State Aid Model envisioned: Two-Sided Capacity-Based Contract for Difference (“CfD”)

Subject to prior State Aid notification to and approval by the European Commission, the Agreement introduces a State Aid CfD scheme with the following key features to the winner of the competitive tenders:

- **Revenue Certainty:** The tendered projects will be granted State Aid in the form of the benefit of a two-sided, capacity-based CfD scheme, guaranteeing the developer a fixed settlement price for possible (not just actual) electricity production over 20 years as established according to the offshore wind farm’s assessed potential production capacity.
- **Bid Criterion:** The sole evaluation parameter is the lowest price per possible produced kilowatt-hour offered by the bidder. This makes cost competitiveness paramount.
- **Symmetric Payments:** If market prices fall below the settlement price (the reference price), the Danish State pays the winning bidder the difference. If market prices exceed it, the developer must pay the difference to the Danish State. This ensures that the Danish State takes a risk but also gets part in any potential upside.
- **State Aid Cap:** The total maximum State Aid expenditure with respect to all 3 tendered projects is capped at an aggregate DKK 55.2 billion (including VAT) and with envisioned sub-caps for each of the three projects. This capped aggregate State Aid amount constitutes double the estimated State Aid amount needed for the 3 tendered projects.
- **No Cap on potential upside Developer Payments to the Danish State:** There is no upper limit on any payments from developers to the Danish state in high-price scenarios where the market price exceeds the settlement price (reference price).

Risk Mitigation and Cost-Sharing measures

The Agreement introduces certain other risk mitigating and cost-sharing measures to accommodate market concerns:

- **State-Funded Site Investigations:** The Danish state will cover the costs for site surveys (approx. DKK 760 million) and defense-related mitigation measures (approx. DKK 1.1 billion).
- **No Financial Suitability Requirements:** Bidders will not have to provide the otherwise customary financial suitability documentation in order to be eligible for participating in the tender. The absence of financial suitability requirements for bidders is intended to broaden market access and increase competition.
- **Flexible Penalty Regime:** Delays in commissioning are subject to moderate penalties, especially in the first two years, aligning with international standards.

Sustainability and Social Responsibility compliance requirements

The Agreement sheds light on some other burdens which the bidders must meet and factor in when providing their bid and subsequently delivering on the project if their bid is successful.

- **Environmental Requirements:** Bidders must provide third-party verified Environmental Product Declarations (EPDs) and Life Cycle Assessments (LCAs) for main components, use recyclable turbine blades (unless proven infeasible), and systematically monitor environmental impacts.
- **Nature-Inclusive Design:** At least one project must incorporate measures to positively impact biodiversity.
- **Social Clauses:** The Agreement imposes various well-known social responsibility requirements in tender processes, including compliance with minimum apprenticeship positions, and robust protections against social dumping, including the imposition of “chain liability” (liability for the compliance of sub-contractors or sub-suppliers), in line with Danish and EU labor standards.

Regulatory Compliance: Foreign Subsidies and FDI Screening

The Agreement stresses that it is pivotal that no distortion as a result of foreign subsidies occur to the detriment of Danish or European businesses and that Danish nation security concerns are not compromised. In practice, this implies that is essential for all prospective bidders to be able to ensure full compliance with the EU Foreign Subsidies Regulation (“FSR”) and the Danish Foreign Direct Investment Act (“FDI”) in order to be able to successfully partake in the tenders.

- **The FSR:** The prospective bidders should in particular take following into account:
 - **Possible Notification Obligation:** Each of the three tenders will have an estimated contract value exceeding the threshold of at least EUR 250 million. This will under the FSR trigger a mandatory notification obligation – ultimately – to the European Commission (“the Commission”). In case the aggregate foreign financial contributions granted to the bidder, including its main subcontractors and suppliers, exceed the threshold of at least EUR 4 million – on aggregate – per third country over the three years preceding notification to the Commission. In this case, the bidder must notify the Danish contracting authority (for the purposes of its further notification to the Commission) of all relevant foreign financial contributions granted to the bidder, including its main subcontractors and suppliers, within the relevant 3-year period preceding the notification.
 - **Subcontractor Due Diligence:** The main subcontractors and suppliers (those contributing more than 20% of the contract value or providing key elements) of the bidder are also relevant for the purpose of assessing whether the bidder triggers the mandatory FSR notification obligation. Therefore, bidders should have robust processes in place to identify and document all relevant foreign financial contributions (as well as foreign subsidies) granted throughout their supply chain with a view to preparing to comply with the mandatory notification obligation if triggered.

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- **Potential Commission Review and intervention:** The bidders should also take into consideration the risk of the Commission intervening and prohibiting the award of the contract to the bidder if the Commission finds that the bidder (or its main sub-contractor or sub-supplier) has been granted a foreign subsidy, which distorts the internal market, and that the bidder does not offer sufficient remedies to mitigate the distortion caused by the granted foreign subsidy concerned.
- **Danish FDI Screening:** All prospective bidders constituting “foreign investors” for the purposes of the Danish FDI must also be able to ensure full compliance with the Danish FDI scheme in order to be eligible for the potential award of any of the tendered contracts. For prospective bidders, any award of the tender contracts may thus be subject to prior FDI notification to and approval by the competent Danish FDI authorities.

Our Comments

The new Danish offshore wind tender framework offers a highly attractive environment for developers and investors, combining long-term price certainty, Danish state-backed risk mitigation measures, and ambitious sustainability standards.

However, the competitive nature of the tender process is very demanding with the selection criteria solely focusing on the lowest price offered by the bidders. It requires the prospective bidders to carefully consider their business plan and their intended bid in light of the implications of the new framework established by the Danish State.

The prospective bidders must also carefully consider the implications of all the relevant regulatory obligations applicable both during the (tender) selection stage but also – in case the bid is successful – during the post-award period.

Given the tenders will commence already in the autumn of 2025, it is imperative for prospective bidders to commence the requisite planning for their bid participation already now.

In case of any questions or queries in this connection, please feel free to reach out to any of our experts in this regard.

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