



Photo by Ørsted

# OFFSHORE WIND AND FISHERIES IN DENMARK

Developing an offshore wind project will necessarily have an impact on the fisheries in the area, and it is, therefore, essential to implement a legal framework. In Denmark, the developer has to consult the local fishermen and discuss potential mitigation measures or financial compensation to the estimated loss of income. Based on documented data, these estimations are initiated during the Environmental Impact Assessment and finalized once the layout is confirmed.

## LEGAL FRAMEWORK

The Danish Fisheries Act applies for 'cable protection zones', e.i. **the entire wind farm area and on a buffer zone of 200m along each side of the export cable.**

According to the Fisheries Act, **all fishermen who normally fish in the affected area must be compensated for the loss of income.** The Developer has to negotiate compensation with every affected fisherman, and the licence to produce electricity from the offshore wind farm (power plant) can be granted to the Developer only if an agreement has been made with all affected fishermen.

The **Construction Permit** granted to the Developer (or 'Concessionaire') states the following conditions:

1. The Concessionaire must contact the relevant commercial fishermen with a view to organizing the construction activities in a way that does not affect commercial fishing more than necessary.
2. The Concessionaire must contact the commercial fishermen operating in the area with a view to negotiating possible compensation for documented losses under the *Fisheries Act* [...] As a general rule, negotiations on compensation are carried out by the Danish Fishermen's Association. However, the Concessionaire should be aware that the Danish Fishermen's Association might not represent all commercial fishermen in the specific area. Any compensation will cover the offshore wind

farm area, including the internal grid system, and the export cable corridor. On some projects the export cable is established by the Danish TSO, Energinet.dk which then also handles the compensation agreement with the affected fishermen. If a compensation sum is determined, the sum must be paid by the Concessionaire (and/or Energinet.dk for the export cable corridor).

3. The question of compensation for disturbances to fisheries during the construction phase and for permanent losses, as well as the amount of possible compensation, should be as far as possible determined prior to commencement of offshore construction work.

## IMPACT ASSESSMENT

An impact assessment on commercial fisheries is prepared as part of the **Environmental Impact Assessment (EIA)** of the predetermined offshore wind site. In the Danish model, the EIA is undertaken simultaneously with the tendering process and is therefore **based on a project-envelope (Rochdale envelope) including the worst-case scenario.**

The analysis is based both on **existing data** from the Danish Fishery Agency - such as log book data (catches per area), Vessel Monitoring System information, etc. – and on **interviews of local fishermen.** It aims at determining the kind of fishing activities carried out in the area, the most important commercial fish species, their yearly distribution, etc. The potential impacts during the construction and operation phases are then assessed. However, **the final estimates of loss and economical compensation to fishermen shall only be made once the wind farm layout has been finalized.**



Hence, as a second step, an independent consultant is hired by the developer after the tendering process to estimate the level of compensation that should be provided to the fishermen. The investigation scope and methods are agreed in cooperation with the Danish Fishermen's Association.

The Developer, the Danish Fishermen's Association and the Danish Fishery Agency finally review and agree on the report.

## NEGOTIATION

The compensation should be paid for **documented losses** with, for example, two- to ten-year data.

The Danish Fishermen's Association and the Developer usually negotiate together, and the Danish Fishermen's Association should involve the relevant local organisations. However, an individual fisherman can also decide to negotiate alone by him/herself, and the Developer is obliged to enter into negotiation.

A voluntary agreement can also be made between the parties: for example, Energinet.dk has made a voluntary agreement with the Danish Fishermen's Association to allow bottom trawling fishing over the export cable connecting the Horns Rev 2 offshore wind farm to shore on the Danish westcoast. Thanks to this voluntary agreement, no compensation has been paid.

Other mitigation measures can smooth the negotiation process, such as:

- Limiting the exclusion areas by dividing the construction area into different phases;
- Providing substitute revenues by including some fishing vessels or fishermen in the construction and operation of the offshore wind farm, e.g. as guard vessels;
- Allowing fishing with static gear inside the wind farm.

Compensation can be provided for the following impacts:

### Pre-investigation phase

- Temporary removal of fishing gear.
- Temporary suspension of fishing activities on areas where e.g. geotechnical surveys are conducted.

### Construction phase

- Suspension of all fishing activities from the construction area.

### Operational phase

- Potential suspension of some fishing activities within the wind farm (usually around the inter-array and export cables, which are protected by the Cable Executive Order (BEK nr 939 af 27/11/1992)).
- Longer distances to sail to new fishing areas.

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