

Copenhagen, 1 September 2021

(The following is an indicative translation of the political agreement from Danish to English. It is only the Danish version of the agreement that is legally binding.)

Tender-preparing partial agreement regarding the long-term framework of a call for tenders and ownership of the energy island in the North Sea

(Implementation of the climate agreement on energy and industry of 22 June 2020 and supplementary agreement of 4 February 2021 regarding ownership and construction of energy islands, etc.)

Voting agreement between

The Danish Government (Socialdemokratiet) and Venstre, Dansk Folkeparti, Socialistisk Folkeparti, Radikale Venstre, Enhedslisten, Det Konservative Folkeparti, Liberal Alliance and Alternativet

By the supplementary political agreement of 4 February 2021, a majority of the Danish Parliament made broad decisions on the ownership and type of construction of the energy islands in the North Sea and at Bornholm. According to the agreement several issues were to be clarified in more detail, in dialogue with the market and through technical, financial, and legal analyses.

This agreement implements parts of the agreement of 4 February and determine important parts of the framework for the specific preparation of the tender for the energy island in the North Sea, including drafting the tender terms regarding the partnership and establishment of the island, as well as the terms and conditions regarding the long-term ownership of and cooperation on the energy island. The parties in the agreement are pleased to note that the decisions considerably reflect the market opinions expressed in the market dialogue, as well as confidence in the value of involving private parties' commercial, industrial and technical expertise to a high degree, which supports the purpose of having a close and long-term partnership.

It is important to the parties in the agreement that further work regarding the energy islands must keep in mind the purpose of the energy islands and take into account the considerations from the agreement of 4 February. The energy islands are to create optimal conditions for the establishment, operation, and innovation in respect of offshore wind in order to exploit and develop the full potential of offshore wind and thereby support a cost-effective electrification of Denmark and Europe. The energy islands must support large-scale exploitation of offshore wind as inexpensive as possible and further support a development where the green transition and continued exploitation of offshore wind is driven predominantly by the market, on market terms without any government subsidies. The energy islands must also be future-proof and have the right properties with sufficient room for innovation.

In accordance to the above, the following is decided:

1. A negotiable one-stage tender of the partnership and construction project regarding the energy island in the North Sea

The parties in the agreement note that the operators on the market want an integrated contract, making it possible for the market to form consortiums and prepare more detailed project proposals in the early process. The parties in the agreement also agree that the expertise and innovative force of the market must be used in the best possible way and as much as possible. Therefore, it is chosen to have a one-stage tender of the partnership and the construction project.

The winning private operator will therefore become responsible for the construction project, as the Danish State will own at least 50.1 per cent of the island when the island has been established, *cf. the supplementary agreement of 4 February*. The principles for the determination of the price of the Danish State's ownership interest will be determined in advance in regard to the call for tenders.

The parties in the agreement note that the winning private operator will therefore be responsible for determining *e.g.* the design of the island within the framework of the described functional requirements. The Danish State's functional interests in the project will be secured by functional requirements in the tender documents, and the call for tenders will be planned in a way that the private co-owner's investment will be screened, if relevant, as an investment in critical infrastructure under the Danish Act on Screening of Investments. Moreover, relevant requirements for the private co-owner will be established in light of the expected presence of other critical infrastructure. It is important to the parties in the agreement that all the parties in a tendering consortium are known before a decision on the tender is made. The specific model must be specified in more detail.

With regard to optimise the final tender terms the parties in the agreement agree on a negotiated procedure. A similar model is known from state tenders of offshore wind and it allows the State to make a decision on the final risk allocation based, *e.g.* on the proposals from the participants in the tender.

2. Award criteria and market-based innovation framework

It is important to the parties in the agreement that the award criteria ensures that the winning project provides the highest quality to price, the best terms and conditions, and the lowest rent for offshore wind and Energinet with the purpose of supporting the cheapest possible exploitation of large-scale offshore wind, *cf. the purposes of the island*. Finally, it must be possible for private parties to contribute with proposals for a potential innovation zone within the framework of the ownership model, *cf. below*. The specific award criteria in the procurement will depend on further analyses.

It is of crucial importance to the parties in the agreement that the energy island in the North Sea provides both the sufficient and suitable framework for innovation. However, it is difficult to be specific about the innovation potential on the energy island at this point. In order to utilise the commercial, industrial, and technical expertise of the market, and to ensure that it will be possible to activate economies of scale during the construction phase, the parties in the agreement agree that it must be possible for bidders to propose an additional area on the island for commercial and innovative purposes within the framework of the ownership model, *cf. below*.

3. Ownership and business model

The parties in the agreement note that the energy island in the North Sea must be owned by a public/private partnership where the Danish State owns minimum 50.1 per cent and one or several private operators own maximum 49.9 per cent, according to the previous agreement.

In order to make transparency regarding the long-term framework for the cooperation of the ownership, the parties in the agreement agree to establish an ownership model structured as a public limited company operating on commercial terms where the Danish State owns minimum 50.1 per cent of the company's shares. The value created from the energy island project will go to the company's equity, and the Danish State and a private partner will have a right to such value creation in proportion to the ownership share and the applicable laws, terms and conditions. The Danish State will manage its ownership according to the ownership policy of the Danish State in addition to any relevant legislation. This means that the Danish State will manage the ownership actively and make ownership decisions at the general meetings of the company, while the board of directors and the executive board of the company will be responsible to operate the company on behalf of the owners. Accordingly, a "principle of arm's length" will support a focus on business operations and value creation in the company, taking into account the purposes of the energy island. Sector policy considerations, such as regulation on relevant revenue, will undergo relevant sectorial legislation *cf. below*.

The detailed terms of cooperation in the company will be determined in dialogue with the market to ensure that the terms and conditions will balance the interests of the market and the Danish State as well as realising the purposes of the energy island, *cf. above*. The aim is to support and demand a long-term responsible co-owners within the applicable laws, terms and conditions. The precise model must be specified in more detail.

The co-owned island company will manage the areas of the island, which will be made available in return for payment of rent or services to users of the island, also in respect of offshore wind, transmission, and innovation. It has been agreed that the competition on establishing innovative activities on the island

must be open to as many operators as possible to support open and fair competition and ensure that the energy island can be used for technological development and commercial opportunities that are not necessarily known today. The island company will decide who will make use of the areas for innovative activities on the island with regard to as much value creation in the company as possible. The island company may itself engage in innovative activities if the activities are on commercial terms. Any revenue from innovative activities from let out areas will be given to the party engaged in the activity, after payment of rents in conformity with the market, fixed by specific agreement with the island company.

4. Transparency of the financing of the energy island in the North Sea

Based on the purposes of the energy island of ensuring large-scale offshore wind as cheaply as possible and support electrification and lower energy prices, the parties in the agreement agree that the net transmission costs of Energinet via the energy island will be passed on to the winning offshore wind projects connected to the energy island to the widest extent possible. The aim is to keep the net electricity rates unaffected as far as possible in regard to the energy island project. Passing on the net transmission costs regarding the electricity production from offshore wind ensures the greatest possible transparency in respect of the actual costs and revenue of the entire energy island project.

The parties in the agreement agree that it must be decided in further detail whether and how revenue and expenses relating to offshore wind and transmission activities must be regulated to ensure interest from the market in establishing offshore wind in connection with the energy islands. As for any other commercial and innovative activities on the island, the initial assessment is that there is no need to regulate the pricing and revenue of the island company since the island company is expected to act in a market exposed to competition.

5. The contract type and process going forward

The parties in the agreement reconfirm that in the long term the energy island in the North Sea must have a capacity of 10 GW offshore wind in total including the 3 GW offshore wind that has already been decided. The parties in the agreement note that there will be both large-scale operation advantages and financial risks associated with starting constructing an island with a capacity of more than 3 GW. The parties in the agreement expect to receive a proposal that can provide the basis for a decision at the turn of the year 2021/2022 regard to different capacities of the island construction. Also, the proposal for the decision must be based on a detailed analysis of and a dialogue with the market about among others market interest, the possibilities of minimising risks, the possibilities of fast expansion of the offshore wind capacity and dealing with any costs of any temporarily vacant areas (availability costs) as well as other financial consequences.

It will be examined in relation to the detailed analysis and a future market dialogue whether and how relevant social clauses and sustainability criteria in compliance with the procurement rules can be incorporated best into the call for tenders, and what the consequences will be.

The parties in the agreement also note that it will only be possible to forward the call for the partnership and construction tender on the basis of a specific decision when there is a status for potential contracts of interconnectors with neighbouring countries as well as specific and updated calculations of the profitability of the island, as the project is still conditional on profitability. Moreover, no decision will be made on the future calls for offshore wind tenders.

The parties in the agreement also expect a continued focus on and a dialogue with relevant market operators about the possibility of optimising the timetables to construct the energy island as quickly as possible. The parties in the agreement will be informed of the dialogue with the market about the possibilities of optimising the timetable at the end of the year.

The parties in the agreement note that the implementation of the energy islands must comply, *e.g.* with EU law, including the rules on state aid, unbundling and procurement.

This decision can be characterised as a voting agreement. The parties behind the agreement undertake to vote in favour of the bills, documents and authority as to funds that will result in the terms of the contract. The parties in the agreement note that this supplementary agreement is within the financial framework of the climate agreement for energy and industry, etc. of 22 June 2020. The parties in the agreement will not be subject to any obligations when the necessary legislation has been adopted and the agreed funds have been set aside.