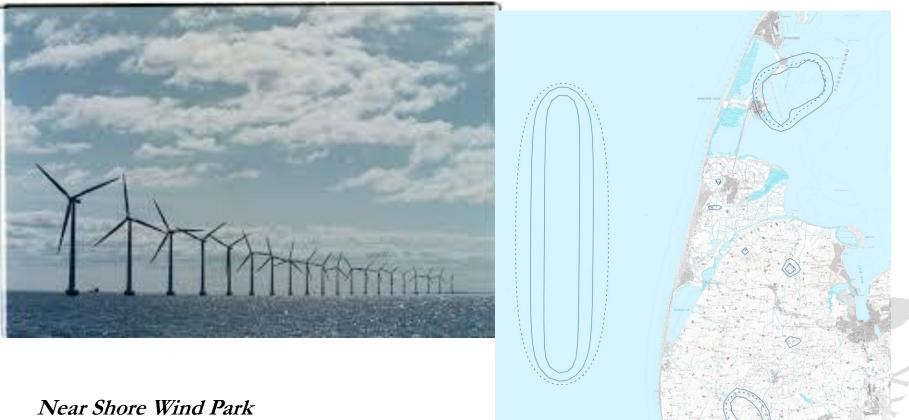


Foreign Direct Investment in Energy Projects

Denmark - Colombia

Offshore wind and energy efficiency

Offshore Wind Park Vesterhav Nord



TYF

21 turbines, 8,4 MW A total og 180 MW Placed at the West Coast of Denmark

30 years anniversary

- Vindeby Offshore Wind Farm
- Erected in 1991 off the coast of the town of Vindeby on the Danish island of Lolland
- Estimated €10 million
- In 25 years, Vindeby had produced a total of 243 GWh
- Decommissioned for cost reasons in 2017

11 turbines	450 kW each
Max. water depth	4 m (13 ft)
Distance from sho re	2 km (1 mi)
Hub height	35 m
Rotor diameter	35 m

Liberalisation

- Vindeby build by monopoly companies
- 1998: Political order to the Danish Power producer to establish 750 MW offshore wind power
- 1999: Liberalisation of the Danish Power sector
 - Part of a general liberalisation of post, tele, railroad, air traffic, natural gas
 - In Denmark driven by the European Union

Post liberalisation

- With Power Production Companies exposed to competition:
 - New regulation for renewable energy production including offshore wind power
 - Act on Promotion of Renewable Energy (2008)
 - Open Door or a Tendering Procedure
 - The Sea is owned by the State
 - Adding legal tools from onshore wind turbines
 - Co-ownership scheme (being repealed)
 - Compensate neighbours for loss of value to their properties

Energy Supply Systems

- Critical to any society
- Expressed in energy policies regarding the security of supply
 - the "flow of energy supply to meet demand in a manner and at a price level that does not disrupt the course of the economy in an environmental[ly] sustainable manner" (Chevalier 2006)
- Closely connected with investments made
 - Without timely investments made in different parts of the value chain, the security of supply will be threatened

Green transition

- If fossil fuels are to be replaced by other energy sources, this will require huge investments in new *production facilities*
- New technical developments, including increased decentralized production from, e.g., solar cells and an increasing number of electric cars, will require future huge investments in the *power grid*
- Quoting the International Energy Agency: "In advanced economies, electricity demand growth is modest, but the investment requirement is still huge as the generation mix changes and infrastructure is upgraded." (IEA 2018)

Investments

- The need for investment may give rise to lower barrier to these investments
- The wish to attract also foreign investments must be balanced up against the risk that foreign investments can be used to, for instance,
 - extract know-how,
 - commit espionage,
 - abuse natural monopolies,
 - establish control over critical infrastructure or other facilities, making it possible to close down the supply

FDI and more

- FDI screening
- Licensing requirements
- Tender conditions incl. shortlisting ERSITY
- Permit requirements
- Unbundling demands
- Order and command (TSO)

Investors in present Danish Offshore Wind Parks > 200 MW

- Kriegers Flak, 604 MW (2021) Vattenfall
- Horns Rev 3, 400 MW (2019) Vattenfall
- Anholt, 399,6 MW (2013) Ørsted and pension fund
- Rødsand II, 207 MW (2010) E.ON
- Horns Rev II, 209,3 MW (2009) Ørsted

Future investors in Danish Offshore Wind

- The usual (Ørsted, Vattenfall)
- Other utilities (Iberola)
- Big oil companies (Total, Shell)
- Investment funds
- Pension funds
- Passive investors possibly through a Power Purchase Agreement (Lego, BASF)

China as an investor

- Chinese SOEs control significant stakes in
 - the Italian power grids, British gas network, and Greece's grid operator.
- China Three Gorges Corp. is holding
 - a 23% stake at the Energias de Portugal SA (EDP)
 - had in April 2019 proposed a hostile takeover of EDP which was rejected at the EDF shareholders' meeting
- 2018, the German government announced to buy a 20% stake in power network company 50Hertz
 - in effect blocking the State Grid Corporation of China (SGCC) from taking a majority stake

Kill switch if?

- A major part of offshore wind is controlled by one company
 - Swedish Vattenfall may on a windy night control half the Danish power production
- Many wind turbines or parts of them is coming from one country
- Foreign control centers not are meeting cyber security standards
 - Danish authorities have addressed Vattenfall

And same problems

- if an owner neglects maintenance and new investments
- if an owner becomes financially weakened
- if ownership or control passes to a dubious investor

Literature

- Chevalier J-M (2006) Security of energy supply for the European Union. Eur Rev Energy Mark 1(3). Available at <u>https://www.eeinstitute.org/european-review-of-energy-</u> <u>market/EREM%203%20article%20Jean-</u> <u>Marie%20Chevalier.pdf</u>
- International Energy Agency, IEA (2018) World Energy Outlook
- Bent Ole Gram Mortensen: *The Energy Sector* in Steffen Hindelang & Andreas Moberg: YSEC Yearbook of Socio-Economic Constitutions 2020 - A Common European Law on Investment Screening (CELIS), 2021

Thank you for your attention

Bent Ole Gram Mortensen Professor of Law, LLM, PhD University of Southern Denmark Department of Law Campusvej 55 – DK-5230 Odense M Phone +45 6550 2160 (direct), Fax +45 6593 0726 E-mail: bom@sam.sdu.dk http://www.sam.sdu.dk/staff/bom https://orcid.org/0000-0001-6295-166X