Brussels, 15 April 2025
Case No: 93862
Document No: 1527376
Decision No 067/25/COL

Ministry of Trade, Industry and Fisheries
PO Box 8090
Dep 0032 Oslo
Norway

Subject: **Norwegian scheme for floating offshore wind – Utsira Nord**

1 Summary

(1) The EFTA Surveillance Authority ('ESA') wishes to inform Norway that, having assessed the planned aid scheme for the development of a new floating offshore wind farm in Utsira Nord ('the measure'), it considers that the measure constitutes State aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections[1] to the measure, as it is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c). ESA has based its decision on the following considerations.

2 Procedure

(2) The Norwegian authorities notified the measure on 8 April 2025.[2]

3 Background

3.1 The objective of mitigating climate change through the reduction of greenhouse gas emissions

(3) Climate mitigation and environmental protection are a fundamental policy goal for both the European Union ('EU')/EEA and Norway.[3]

(4) The EU is committed to transform the European economy into a highly energy-efficient, carbon-neutral economy. To facilitate this, the European Climate Law came into effect on 29 July 2021.[4] The European Climate Law establishes the framework for achieving climate neutrality by 2050 and mandates a reduction of at least 55% in net greenhouse gas emissions by 2030, compared to 1990 levels. It

[1] Reference is made to Article 4(3) of Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.
[2] Document Nos 1530131, 1530135, 1530133, 1530129, 1530139, 1530143, 1530137, and 1530141.
[3] See also Article 73 of the EEA Agreement.
[4] Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), OJ L 243, 9.7.2021, pp. 1–17.

also emphasises the importance of developing climate-friendly energy production to meet these targets.

(5) The European Climate Law does not apply in the EEA. However, Norway has, pursuant to EEA Joint Committee Decision No 269/2019,[5] committed to take actions aimed at achieving a reduction of at least 40% in greenhouse gas emissions by 2030 compared to 1990 levels.[6] Moreover, Norway is also subject to the Effort Sharing Regulation,[7] the Regulation on Land Use Change and Forestry,[8] and the EU Emissions Trading System ('ETS').[9] As part of its "Fit for 55" package, the EU has updated these acts to align them on the target of at least 55% reduction of greenhouse gas emissions by 2030.[10]

(6) Norway is also a party to the Paris Agreement, which came into effect in 2016. Before the UN Climate Change Conference in Egypt (COP27), Norway submitted a revised target to reduce greenhouse gas emissions by at least 55% by 2030, compared to 1990.[11]

(7) In the Norwegian Climate Change Act, Norway endorsed the objective of further reducing its greenhouse gas emissions by 2050. Section 4 of the Climate Change Act states that Norway aims to reduce its greenhouse gas emissions by 90-95% by 2050, compared to 1990 levels.[12]

3.2 The role of offshore wind in reducing greenhouse gas emissions

(8) The European Commission has emphasised that offshore renewables will play a pivotal role in meeting the EU's energy and climate targets for 2030 and 2050. Offshore renewables are viewed as essential to achieve decarbonisation and

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[5] See the EEA Joint Committee Decision No 269/2019 of 25 October 2019 and the declarations made in conjunction with this decision, OJ L 11, 12.1.2023, p. 38-45. See also the press release of the European Commission of 25 October 2019.

[6] See EEA Joint Committee Decision No 269/2019 of 25 October 2019 and press release by the European Commission of 25 October 2019 (see footnote 5).

[7] Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 ('Effort Sharing Regulation'), OJ L 156, 19.6.2018, pp. 26–42, incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 269/2019 of 25 October 2019, OJ L 11, 12.1.2023, p. 38 and EEA Supplement No 5, 12.1.2023, p. 32.

[8] Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU ('Regulation on Land Use Change and Forestry'), OJ L 156, 19.6.2018, pp. 1–25, incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 269/2019 of 25 October 2019, OJ L 11, 12.1.2023, p. 38 and EEA Supplement No 5, 12.1.2023, p. 32.

[9] Information about the EU ETS is available on the European Commission's website: https://climate.ec.europa.eu/eu-action/eu-emissions-trading-system-eu-ets/about-eu-ets_en.

[10] These amendments, reflecting more stringent targets for the EU Member States, are currently not incorporated into the EEA Agreement.

[11] See the press release: Norway's new climate target: emissions to be cut by at least 55 % - regjeringen.no.

[12] The Climate Change Act (in Norwegian: klimaloven) (LOV-2019-06-16-60).

climate neutrality.[13] The deployment of offshore wind energy is also considered to be at the core of delivering the European Green Deal.[14]

(9) In 2024, the EU legislator adopted the Net Zero Industry Act ('NZIA') The NZIA also acknowledges the crucial role offshore renewable technologies will play in reaching net-zero emissions by 2050.[15] The NZIA states that net-zero technologies play a key role in the EU's open strategic autonomy, ensuring that citizens have access to clean, affordable, and secure energy.

(10) According to the International Energy Agency ('IEA'), 70% of the world's offshore wind potential is located in waters too deep for bottom-fixed technology.[16] Floating offshore wind technology, which does not need to be fixed to the seabed, therefore serves an important role in increasing the global production of renewable energy and reducing global emissions.

(11) In the European Commission's Communication on the European Wind Power Package,[17] which aims to address the challenges facing the wind industry, floating offshore wind is identified as a priority under one of the proposed measures. The Communication states that floating offshore wind is a priority, as this technology is necessary to unlock the energy potential in deeper waters, such as those in the Atlantic Ocean and the Mediterranean Sea.

(12) In its Guidelines on State aid for climate, environmental protection and energy ('CEEAG'),[18] ESA acknowledges that State aid rules have an important role to play in enabling and supporting the EU and EEA in fulfilling their Green Deal policy objectives. The CEEAG therefore cover aid measures to support renewable energy and aid for the security of electricity supply.

(13) The Norwegian authorities submit that State support to facilitate the development of floating offshore wind production in Utsira Nord[19] contributes to reducing greenhouse gas emissions and to the Green Deal Industrial Plan[20] in line with EU/EEA and Norwegian climate policies.

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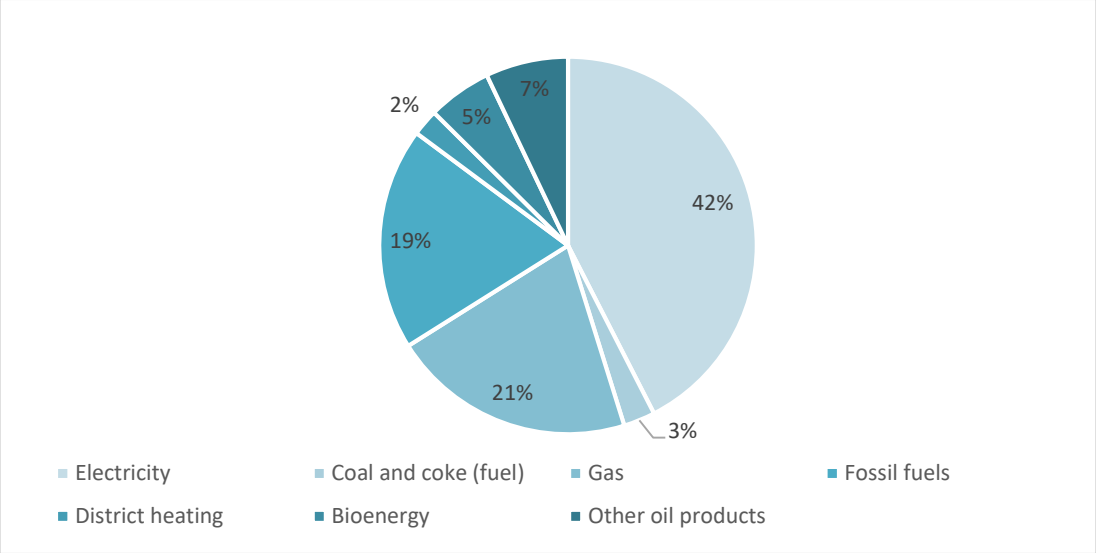
[13] European Commission, Communication on delivering on the EU offshore renewable energy ambitions, COM(2023) 668 final, 24.10.2023, p. 12.
[14] Offshore renewable energy (europa.eu). Information about the European Green Deal is available on the European Commission's website: https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en.
[15] Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724, OJ L, 2024/1735, 28.6.2024. The assessment of EEA relevance of the NZIA is currently pending with the EEA EFTA States, see here.
[16] EIA (2019) Offshore Wind Outlook 2019, p. 51.
[17] European Commission, Communication on delivering on the EU's offshore energy ambition (see footnote 13), p. 12.
[18] OJ L 277, 27.10.2022, p. 218, and EEA Supplement No 68, 27.10.2022, p. 1.
[19] "Utsira Nord" is the area outlined as Utsira Nord in Table 1 in Section 4.2.1.
[20] Information about the Green Deal Industrial Plan is available on the European Commission's website: https://commission.europa.eu/document/41514677-9598-4d89-a572-abe21cb037f4_en.

3.3 The Norwegian energy mix

(14) The Norwegian authorities explain that 98% of Norway's power production is mainly based on renewable sources, keeping the associated CO_2 emissions relatively low.[21] Norway also has the highest proportion of renewable energy in Europe. However, since Norway is well connected to the European energy grid through multiple interconnectors, some of the electricity consumed in Norway may come from sources with higher greenhouse gas emissions, such as coal.

(15) Energy consumption in sectors such as transport and industry is more reliant on non-electric energy sources, which tend to have higher greenhouse gas emissions. In total, about 50% of Norway's energy consumption is based on fossil fuels, while 42% comes from electricity (see Figure 1 below).

Figure 1: Norway's total energy consumption in 2022



The figure includes energy consumption on the mainland and the Norwegian continental shelf. Source: NVE (2023) Samlet energibruk

(16) The Norwegian authorities submit that floating offshore wind in Utsira Nord will increase the amount of renewable power production in Norway. This will drive electrification and reduce the reliance on fossil fuels in sectors like transport, industry, and business. Moreover, increased power production could help establish new clean industries and foster energy consumption based on renewable electricity. It may also contribute to greenhouse gas emission reductions across Europe by replacing non-renewable energy sources.

3.4 The Norwegian strategy for renewable offshore energy production

(17) Norway has ambitious plans for offshore wind development. With sea areas five times the size of its landmass combined with good wind conditions, Norway is well positioned to produce energy from offshore wind.

(18) Wind power, including offshore wind power, became part of Norway's climate strategy around 2005, and was proposed as a climate-friendly energy source in the

[21] NVE (2023): Hvor kommer strømmen fra? - NVE.

2007 White Paper on Norwegian Climate Policy.[22] In 2013, the Norwegian Water Resources and Energy Directorate ('NVE')[23] identified 15 potential areas for offshore wind production.[24] By 2018, the Government introduced a strategy for floating offshore wind production, focusing on value creation, cost-effectiveness, and sustainable use of Norwegian energy sources.[25]

(19) In 2020, the areas Utsira Nord and Sørlige Nordsjø II were opened for offshore energy production by royal decree.[26] Utsira Nord is only suitable for floating technology, while bottom-fixed foundations will be installed in Sørlige Nordsjø II.

(20) Norway has ambitions to award project areas suitable for an installed capacity of 30 GW offshore wind production by 2040. This would correspond to around 75% of the current capacity of the Norwegian power system.[27]

(21) In 2023, NVE and an internal directorate-level committee identified 20 areas potentially suitable for offshore energy production. These areas are currently undergoing a strategic impact assessment, which is expected to be completed in 2025. The strategic impact assessment is a high-level assessment of an area's suitability for offshore wind. Moreover, it assesses whether the consequences of allowing offshore wind in a particular area are acceptable from an environmental and societal perspective.[28]

(22) Of the 20 areas identified by NVE, 13 areas are only suitable for floating technology, while four areas may be suitable for both bottom-fixed and floating technology (see Figure 2 below). The three areas that are only suitable for bottom-fixed technology are all located in the southern parts of the North Sea.

[22] Parliamentary announcement; St. meld. Nr. 34 (2006-2007) Norsk klimapolitikk, English summary to be found here: Report No. 34 to the Storting (2006-2007) – regjeringen.no.
[23] A government agency established in 1921. It is under the Ministry of Energy and regulates Norway's water resources and energy supply.
[24] NVE (2010): Havvind - Forslag til utredningsområder. Eleven of the identified areas were suitable for bottom-fixed installations, while four were suitable for floating structures.
[25] Proposal for State budget from the Ministry of Petroleum and Energy, Prop. 1 S (2017–2018) (regjeringen.no) p. 159.
[26] See press release: Opner områder for havvind i Noreg - regjeringen.no.
[27] From the Ministry of Energy's website: Havvind, Havvind - regjeringen.no.
[28] The Offshore Energy Act (in Norwegian: havenergilova) (LOV-2010-06-04-21), Section 2-2.

Figure 2: Blue and striped areas are suitable for floating offshore wind[29]

Source: Notification[30]

3.5 The Norwegian regulatory framework for the development of offshore wind in Norway

3.5.1 The Norwegian Offshore Energy Act

(23) The Norwegian Offshore Energy Act ('the Offshore Energy Act')[31] regulates renewable energy production and the conversion and transmission of electricity offshore. The Offshore Energy Act applies to the Norwegian sea territory outside the baselines and on the continental shelf.

(24) According to Section 1-3 of the Offshore Energy Act, the right to exploit renewable energy resources at sea belongs to the Norwegian State. Therefore, any private entity seeking to exploit renewable energy resources at sea will need to obtain this right from the Norwegian Ministry of Energy ('the Ministry').

(25) Pursuant to Section 2-2 of the Offshore Energy Act, the King in Council may open an area that falls within the scope of Section 1-2 of the Offshore Energy Act with the aim of awarding a licence for establishing renewable energy production facilities (in this decision referred to as 'production licence') pursuant to Section 3-1 of the

[29] Vestavind F includes the already opened areas of Utsira Nord.
[30] P. 8, and https://www.regjeringen.no/contentassets/306066befa1540c0b81bafb31b559f45/horingsnotat-stotteordning-for-flytende-havvind-i-vestavind-b-og-vestavind-f.pdf, p. 9.
[31] See footnote 28.

Offshore Energy Act. Prior to such a decision, an impact assessment must be carried out to examine the environmental and societal effects of renewable energy production in the concerned area. Both the decision to open an area and the impact assessment must be subject to public consultation, pursuant to Section 2-2 of the Offshore Energy Act.

(26) Areas opened under Section 2-2 of the Offshore Energy Act shall, according to Section 2-3 of the Offshore Energy Act, as a main rule be awarded on the basis of a competition (in Norwegian "*gjennom konkurranse*"). The competition can either be an auction, an evaluation of the applicants based on objective and non-discriminatory criteria, or a combination of both methods. The Norwegian authorities have explained that the preparatory works to the Offshore Energy Act presuppose that awarding areas based on qualitative criteria is appropriate for immature technologies, such as floating offshore wind.[32] This flexibility in assigning project areas allows the Ministry to meet various regulatory objectives and tailor the competition to the maturity level of the relevant technology.

(27) The competition announcement must include the qualitative criteria that the developers will be assessed on, and which shall be objective and non-discriminatory according to Section 2b of the Offshore Energy Regulation.[33]

(28) Pursuant to Section 2-3 of the Offshore Energy Act, applicants must demonstrate satisfactory technical competence, financial strength, and the ability to meet all relevant health, environment, and safety requirements.

(29) The successful applicant is granted a time-limited exclusive right to conduct a project-specific impact assessment and to apply for a production licence to establish a renewable energy production facility under Section 3-1 of the Offshore Energy Act. The statutory deadline to conduct the impact assessment and to apply for the production licence is two years from the Ministry's approval of the impact assessment. Failure to comply with the deadline results in the loss of the exclusive right to the project area.[34]

(30) The production licence pursuant to Section 3-1 of the Offshore Energy Act is necessary to build, own, or operate offshore electricity installations, including offshore wind. Similarly, Section 3-2 of the Offshore Energy Act requires a licence to construct, own or operate infrastructure for the conversion or transmission of electricity. The Ministry may impose conditions when granting licences (see Section 3-4 of the Act). Such conditions may relate to safety and emergency preparedness, measures to limit or mitigate damage or inconvenience to the environment and biodiversity, the operation and maintenance of the facility, deadlines and progress requirements, and in consideration of other business interests. According to the Norwegian authorities, the Norwegian administrative law includes a doctrine on conditions for favourable decisions whereby any conditions must be reasonably connected to the allocation and cannot be disproportionately burdensome.

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[32] See Prop. 143 L (2021-2022), p. 18.

[33] The Offshore Energy Regulation, (in Norwegian: Forskrift til havenergilova), (FOR-2020-06-12-1192).

[34] The Offshore Energy Regulation, Section 9.

(31) After receiving a production licence, the developer must submit a detailed plan to NVE for approval within two years.[35] The detailed plan must outline the financial, technical, resource-related, environmental, and safety-related aspects of the production facilities.[36] Construction of the production facilities cannot begin until the plan is approved, and the project must be put into operation within three years after the approval of the plan.[37] Provided these conditions are fulfilled, the developer is granted a licence to build, own and operate a production facility for the exploitation of offshore renewable energy resources for up to 30 years pursuant to Section 3-5 of the Offshore Energy Act.

(32) Failure to comply with deadlines under the production licence or statutory deadlines may result in a revocation of the licence insofar an extension is not granted.[38]

(33) Moreover, a transfer of the rights to a project area or a production licence requires the Ministry's approval.[39]

(34) Since the decisions to award a project area, a production licence, and to approve a detailed plan are administrative decisions, they can be appealed by affected parties in line with the general practice for administrative decisions in Norway.

3.5.2 Rules on third-party access

(35) The Norwegian Energy Act ('the Energy Act'),[40] regulates the energy production, conversion, transmission, distribution and utilisation of energy. Sections 3-4 and 3-4a of the Energy Act set forth provisions regarding third-party access to electricity grids. According to the Norwegian authorities, these provisions fulfil the requirements under Article 32 of Directive 2009/72/EC[41] and Article 6 of Directive EU/2019/944.[42]

(36) In particular, Sections 3-4 and 3-4a of the Energy Act require holders of facility licences pursuant to Section 3-1 of the Energy Act (typically operators of transmission and distribution grids) to connect new consumers or producers to the grid, even if grid investments are needed, with limited exceptions.

(37) Section 1-1 of the Energy Act provides that it does not apply to the Norwegian sea territory. In view of this, the Norwegian authorities plan to introduce legislation establishing a general legal basis for third-party access to offshore electricity grids currently falling outside of the scope of the Energy Act.

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[35] The Offshore Energy Act, Section 3-1, second paragraph. Further details on the criteria for the detailed project plan are set out in the Offshore Energy Regulation, Section 9.
[36] The Offshore Energy Regulation, Section 9.
[37] The Offshore Energy Regulation, Section 10.
[38] The Offshore Energy Act, Section 10-7 (2) and the Offshore Energy Regulation, Section 2d (4) and 11.
[39] The Offshore Energy Regulation, Section 2d (5), and Ot.prp.nr.107 (2008–2009) p. 81.
[40] The Energy Act (in Norwegian: energiloven) (LOV-1990-06-29-50).
[41] Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, OJ L 211, 14.8.2009, pp. 55–93, referred to at point 22 of Annex IV to the EEA Agreement.
[42] Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast), OJ L 158, 14.6.2019, pp. 125–199. Directive (EU) 2019/944 is not yet incorporated into the EEA Agreement.

(38) The Norwegian authorities confirm that these rules will comply with applicable EEA rules governing third-party access. Moreover, the Norwegian authorities confirm that the legislation for third-party access will be enacted before the wind farms in Sørlige Nordsjø II and Utsira Nord are operational.

(39) When awarding a licence under Section 3-1 of the Offshore Energy Act, the Ministry may also facilitate grid coordination, including third-party access, by imposing conditions pursuant to Section 3-4 of the Offshore Energy Act. The Norwegian authorities confirm that any conditions pursuant to Section 3-4 of the Offshore Energy Act governing third-party access will comply with applicable EEA rules.

4 Description of the measure

4.1 Objective

(40) The primary objective of the measure is to support the development of cost-effective floating offshore wind projects, to help achieve Norway's and the EU/EEA's long-term climate goals. The measure will increase the supply of renewable energy production to meet the anticipated rise in electricity demand in the coming years.

(41) The measure also aims to promote innovation and technological and industrial development in floating offshore wind. Fostering innovation and advancing technology in the floating offshore wind sector is necessary to achieve the Norwegian Government's target of designating areas with an installed capacity of 30 GW for offshore wind production by 2040. Further, the aid scheme will help increase supply chain capacity to meet the Norwegian and the EU/EEA's ambitions for offshore wind.

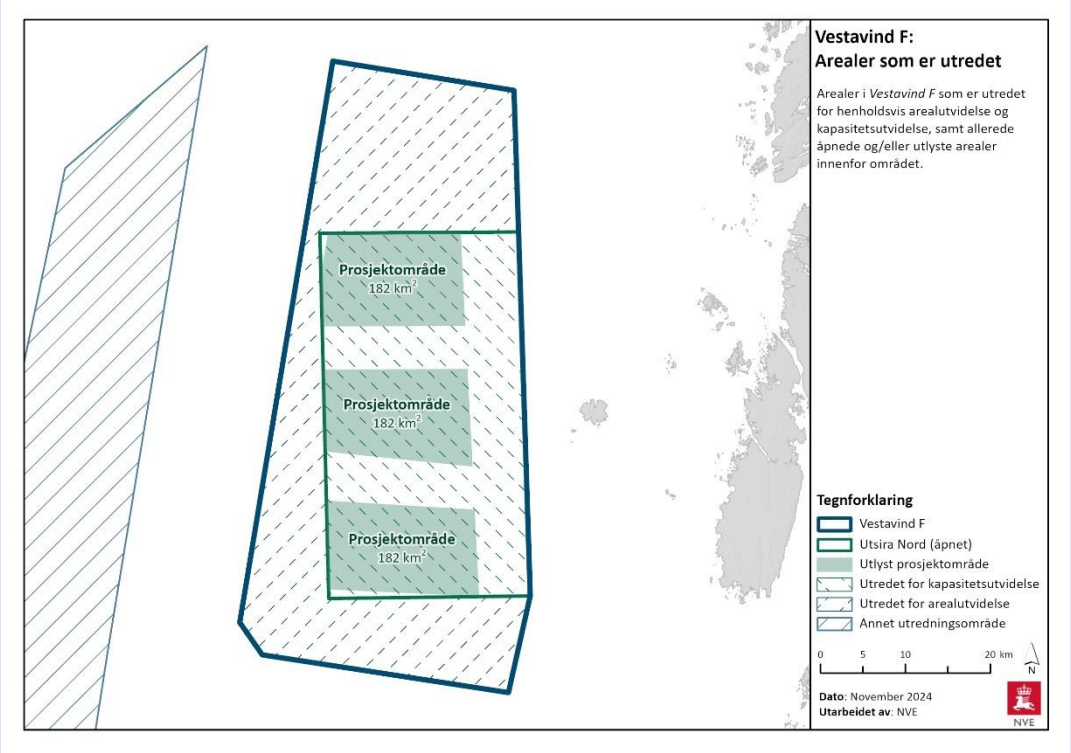
4.2 Utsira Nord - the area to be developed

4.2.1 Location

(42) Utsira Nord is located in the southwestern area of the Norwegian part of the North Sea. In 2020, Utsira Nord was opened for 1 500 MW offshore energy production divided equally between three project areas.[43] The Norwegian authorities plan to announce the competition for the three project areas in 2025. Table 1 provides a summary of the technical characteristics of the areas.

[43] The royal resolution of 12 June 2020: Opning av områda Utsira Nord og Sørlige Nordsjø II for konsesjonshandsaming av søknader om fornybar energiproduksjon etter havenergilova.

Table 1: overview of Utsira Nord

Utsira Nord	
	
Total area coverage	1010 km²
Type of technology	Floating
Minimum distance to coastline*	7 kilometres
Minimum distance to mainland and larger islands**	22 kilometres
Average depth	265 meters
Average wave height	2.2 meters
Highest 50-year wave	13.0 meters
Average wind speed (150 MASL.)	10.2 m/s

Source: NVE[44]
* mainland and all islands, islets and reefs
** mainland and islands larger than 25 km²

4.2.1 Technical specifications

(43) The average depth at Utsira Nord is 265 meters (see Table 1) and is therefore only suitable for floating offshore wind technology. These depth conditions are roughly

[44] NVE (2024) Strategisk konsekvensutredning av vindkraft til havs: Utredning av Vestavind F.

comparable with Hywind Tampen,[45] but significantly deeper than other known floating offshore wind farms under development in Europe.[46]

(44) As illustrated by Table 1, the three project areas at Utsira Nord are located next to each other geographically. According to the Norwegian authorities, the areas are approximately of the same size and with the same permitted capacity of 500 MW. Moreover, the Norwegian authorities explain that the main physical and technical factors capable of affecting the project's profitability primarily relate to the seabed, depth, wind conditions, wave conditions, wake effects, and distance to shore. According to the Norwegian authorities, based on available studies, there are no significant differences between the three project areas with respect to these conditions.

(45) Utsira Nord has stable and good wind conditions, with a net capacity factor estimated to 47%.[47] A net capacity factor takes into account that some of the energy output will be lost due to wake effects, grid transportation of the energy etc. Therefore, a 5 km buffer zone between the project areas will be included to reduce any potential wake effects.

(46) According to the Norwegian authorities, it is expected that the project receiving State aid will be fully operational around 2032-2035, depending on the time needed for development and construction.

4.2.2 Overview of the infrastructure elements

(47) Utsira Nord will be connected by a radial connection[48] to mainland Norway. As seen in Table 1, the project areas are situated relatively close to the Norwegian coast and are far from other countries.

(48) The infrastructure elements associated with the measure include the wind farm to be developed and its (radial) grid connection to the transmission grid in mainland Norway. This infrastructure includes the following components:

- the wind farm itself, including wind turbines, floating foundations and inter-array cabling; and
- the grid connection from the wind farm to the onshore substation, including the cable to the point of connection in the onshore substation owned by Statnett (the Norwegian transmission system operator ('TSO')), referred to in this Decision as the 'developer's connection'.[49]

[45] https://www.equinor.com/energy/hywind-tampen.
[46] European Commission decision SA.100269, *Offshore wind farm off Brittany*, OJ C/2023/090, 10.03.2023, p. 5.
[47] The estimated net capacity factor is based on analyses of the potential for energy production in areas Vestavind B and Vestavind F (that are suitable for floating offshore wind) developed by consultancy firms Multiconsult and Meventus as part of the strategic impact assessment.
[48] A radial connection is a cable that links the offshore wind farm to a point on the main electricity grid.
[49] The Norwegian authorities consider that the developer's connection amounts to "dedicated infrastructure" under CEEAG footnote 27.

(49) The developer will also have to cover a proportionate share of any necessary investments in the mainland transmission grid that are triggered by the wind farm being connected to the grid. According to the Norwegian authorities, this financial contribution will be calculated pursuant to the rules on investment contribution fees in the Regulation on economic and technical reporting and tariffs.[50]

(50) Given the short distance to shore, offshore wind production in Utsira Nord will be connected directly to the transmission grid using an alternating current connection, in contrast to the direct current connection typically used for wind farms located further offshore.

(51) The connection points for the floating offshore wind farm to the transmission grid will be determined by Statnett, the Norwegian TSO. The exact location of the connection point for the wind farm will be determined at a later stage. The developers will have to apply for the designated connection point after the project areas have been awarded.

(52) The Norwegian authorities further explain that the necessary substations for offshore wind in Utsira Nord are likely to be located on land due to their proximity to the shore. Therefore, the third-party access provisions applicable to onshore grid operators under Section 3-4 of the Norwegian Energy Act will apply, requiring grid operators to connect third parties to the onshore grid stations.

4.3 Need for State aid to develop floating offshore wind

4.3.1 The market for floating offshore wind

(53) The Norwegian authorities submit that floating offshore wind technology is still in its early stages and remains in a pre-commercial phase.[51] To date, only test and demonstration projects are in operation, and neither the technology nor the supply chain has been scaled up for industrial use.

(54) Floating offshore wind only accounted for 235 MW of the 74 600 MW of offshore wind installed globally by 2024,[52] representing roughly 0.3% of the global offshore wind capacity.

(55) Equinor's Hywind Tampen is currently the largest floating offshore wind farm in operation worldwide. With an installed capacity of 88 MW, Hywind Tampen supplies electricity to the petroleum platforms in the Snorre and Gullfaks fields on the Norwegian continental shelf, covering about 35% of the platforms' power consumption. It began operations in 2023.

(56) In 2023, floating offshore wind farms were also deployed in Spain (DemoSATH, 2 MW) and in China (CNOOC Guan Lan, 7.5 MW).[53]

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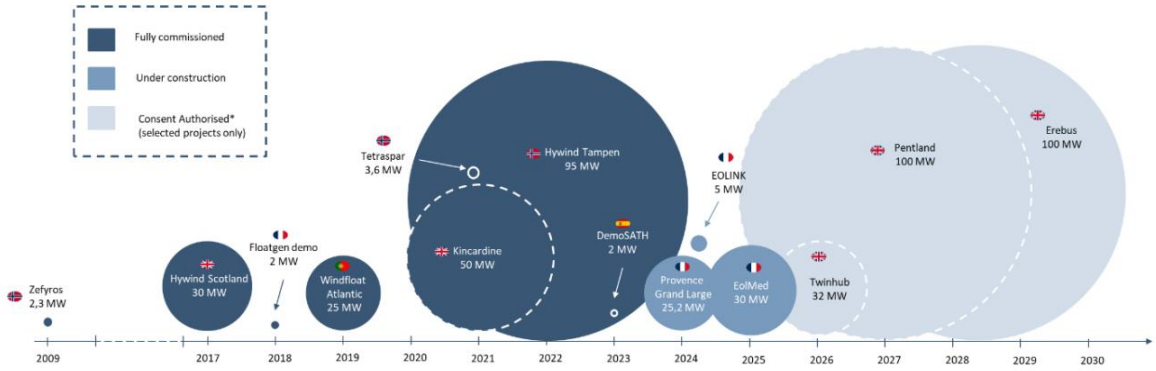
[50] See Regulation on tariffs and reporting obligations for trading licence holders (in Norwegian: Forskrift om tariffer og rapporteringsplikt for omsetningskonsesjonærer) (FOR-1999-03-11-302).
[51] Report by Menon Economics (consultancy firm), Floating offshore wind – why scale matters ('Menon 2024'), p. 1.
[52] 4C Offshore (2024) Market Overview Report Q4 2024, p. 6 and 22 (Document No 1529146).
[53] World Forum Offshore Wind (business platform offshore wind industry) Global offshore wind report 2023, p. 9 and 11.

(57) Currently, two floating offshore wind farms with an installed capacity of 25 MW and 30 MW are under construction in France. There is also one 4 MW floating wind farm under construction in China (Longyuan Nanri Island).[54]

(58) Figure 3 below illustrates the development of floating offshore wind energy in Europe through 2027.

Figure 3: Floating offshore wind development in Europe towards 2027



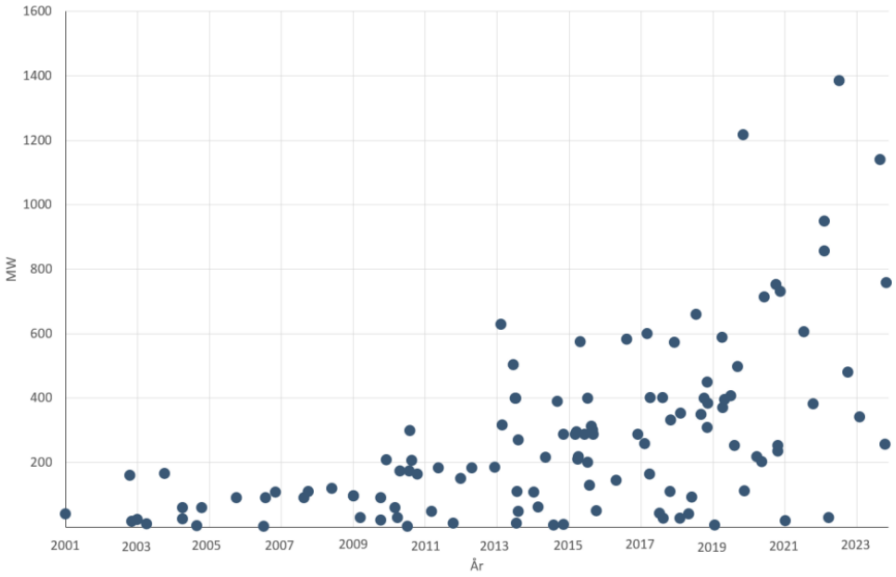
Source: Menon (2024), p. 6

(59) The Norwegian authorities submit that despite these developments, floating offshore wind is still only at the same stage of development as bottom-fixed offshore wind was at around year 2000.[55]

(60) This can be seen by comparing the installed capacity for floating offshore wind projects to Figure 4 below, which is a scatterplot of fully commissioned European bottom-fixed wind farms with regard to installed capacity and the date of commission.

[54] Ibid, p.11.
[55] Menon (2024), p.5.

Figure 4: European bottom-fixed wind farms by size and date of commission



Source: Menon (2024), p. 6

(61) The Norwegian authorities submit that due to the immaturity of floating offshore wind technology and its lack of industrialisation, State aid is necessary to realise floating offshore wind projects.

4.3.2 Existing policy measures to reduce greenhouse gas emissions

(62) Norway's primary climate strategy involves pricing emissions through the ETS and a national CO_2 tax, which has been progressively increased since 1991.[56] This aims to encourage the development of emission-reducing technologies and the shift from fossil fuels to alternatives such as electricity or clean hydrogen. Norway has also introduced regulations, like prohibiting reliance on fossil fuels to heat buildings,[57] and is exploring further restrictions for industry and maritime sectors.

(63) Since 2022, the Government has released an annual climate status report together with the State budget, detailing progress under the National Climate Act. The 2023/2024 climate report proposes key measures to reduce emissions, including increasing the CO_2 tax, expanding its scope, and phasing out fossil emissions across industry, shipping, construction sites, and road transport.

(64) The Norwegian authorities explain that these measures, along with revenues from the guarantees of origin scheme,[58] are not sufficient to ensure the necessary investment in large-scale floating offshore wind projects. The Norwegian authorities also point to the net present value ('NPV') analysis presented in Section 4.3.3.5 in support of this argument.

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[56] CO2-avgiften - regjeringen.no.

[57] Regulation prohibiting the use of mineral oil for heating buildings (in Norwegian: Forskrift om forbud mot bruk av mineralolje til oppvarming av bygninger) (FOR-2018-06-28-1060).

[58] Guarantees of origin constitute a certification scheme for electricity, to demonstrate to the consumer that a specified quantity of power has been generated from a designated energy source. Guarantees of origin are regulated in the Norwegian regulation on guarantees of origin for production of electricity (in Norwegian: Forskrift om opprinnelsesgarantier for kraft) (FOR-2007-12-14-165).

4.3.3 Reference projects

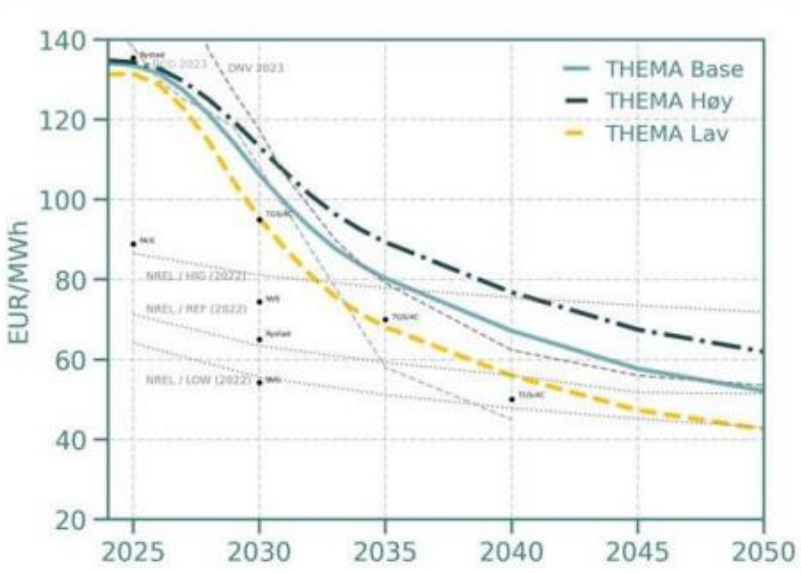
4.3.3.1 High and uncertain costs

(65) Floating offshore wind technology is more costly than bottom-fixed offshore wind technology. The development costs for floating offshore wind are also highly uncertain, as both the technology and supply chains are still in the early stages, with only a small number of reference projects available.

(66) As explained by the Norwegian authorities, offshore wind costs are subject to a range of factors. These include global influences such as material prices, interest rates, currency rates and freight rates, but also the state of the supply chain such as delivery capacity and competition, as well as the geopolitical situation. Access to raw materials, especially for use in generators, is also uncertain, and some raw materials are dependent on value chains dominated by a few countries. The cost uncertainty also means that potential developers[59] have limited information about the actual costs of developing new projects. This is in particular the case for larger projects, where there are no existing experience and figures to reference.

(67) The Norwegian authorities note that the costs of floating offshore wind are expected to decrease as more projects are developed and the technology matures. They emphasise that experience and lessons learned from completed projects will be crucial for streamlining production processes and advancing industrialisation, which will, in turn, drive cost reductions.[60]

Figure 5: Estimated cost development for floating offshore wind



Source: THEMA (2023) Veikart til lønnsom havvind, p. 5[61]

4.3.3.2 Expected investment and operating costs

(68) The Norwegian authorities have provided a simplified analysis of the costs and NPV of developing floating offshore wind in Utsira Nord. The analysis is based on a reference project that considers both assumed and known physical characteristics

[59] In this Decision, 'developers' are considered as undertakings acting alone, through joint ventures or through other types of consortia with the purpose of developing a floating offshore wind farm.
[60] Menon (2022) Flytende havvind, p. 22-23
[61] Report by THEMA Consulting Group ('THEMA'), Veikart til lønnsom havvind (2023), p. 5.

of Vestavind F (including Utsira Nord) and Vestavind B along with other project-specific assumptions such as future technology development.

(69) The reference project has an installed capacity of 506 MW and an estimated net annual production of 2.1 TWh/year. The main assumptions for the reference project are summarised in Table 2.[62]

Table 2: Main assumptions for the reference project

Property	Assumption
Net energy production	2,1 TWh/year
Installed capacity	506 MW
Net capacity factor[63]	47 %
Depth	- 300 m
Total cable length for export of production	80 km
Turbine size[64]	22 MW
Foundation type[65]	Semi-submersibles
Lifetime	30 years

Source: Notification[66]

(70) The Norwegian authorities submit that the estimated costs for the reference project are based on analyses from the strategic impact assessment of Vestavind F (including Utsira Nord), Vestavind B and Sørvest F. The costs have been compiled by the consultancy firm AFRY,[67] which has developed a cost database for offshore wind based on experience from previous projects and input from experts.

4.3.3.3 The levelised costs of electricity production

(71) The Norwegian authorities submit that NVE has estimated the levelised cost of electricity ('LCOE')[68] of the reference project using the cost database from AFRY.

[62] An extensive list of assumptions was included in Document No 1530143.
[63] See footnote 47.
[64] The turbine size corresponds to the EIA reference turbine 22 MW developed for TCP Task 55. The purpose of the EIA Wind Task 55 REFWIND is to coordinate international efforts towards the rigorous definition of reference wind turbines and plants. An installed capacity of 506 MW corresponds to 23 turbines.
[65] It is estimated that approx. 80 pct. of announced and operational floating offshore wind projects are/will be of this type (Source: DOI (2023) Offshore Wind Market Report: 2023 Edition, p 73). However, other solutions may also be used in Norwegian waters if they are competitive in terms of costs and technical solution.
[66] Notification, p. 17, see footnote 63.
[67] https://afry.com/en.
[68] LCOE is a measure of the average net present cost of electricity generation for a generator over its lifetime.

The estimated LCOE for the reference project in the base case scenario is NOK 1.24/kWh. The LCOE includes the costs of all grid infrastructure, except for any investments in the onshore transmission grid.[69]

(72) The LCOE is calculated assuming that the reference project is "built overnight" and that all costs fall at the same time. Therefore, financial costs like interest rates during construction, taxes, and the distribution between equity and loans, along with the required rate of return, are not considered. Decommissioning costs are also excluded from the calculation. Furthermore, the LCOE is calculated with a real rate of return of 6%. A real return rate of 6% is in accordance with NVE's assumptions for offshore wind investments.

4.3.3.4 Future electricity prices

(73) In Table 3, the Norwegian authorities have submitted a price forecast for southern Norway.[70]

Table 3: Power price forecast in NOK/kWh for NO2[71]

Year	Low power prices	Base case	High power prices
2030	0.47	0.82	1.23
2035	0.32	0.57	0.83
2040	0.26	0.49	0.74

Source: Notification.[72]

(74) The Norwegian authorities explain that since offshore wind is non-dispatchable, floating offshore wind projects in Utsira Nord are likely to obtain a slightly lower electricity price on average than the forecasted electricity price. This is because offshore wind projects in the same areas are likely to have similar generation profiles, leading to simultaneous power production, which in turn lowers power prices. To account for this, a value factor has been applied, defined as the captured price for power plants using a specific production technology (in this case, wind) divided by the average price within the relevant bidding zone. The goal is for the estimated revenues to more accurately reflect effects like price cannibalisation. The value factors applied to the reference project are summarised in Table 4.

[69] There is a significant degree of costs uncertainty. This is also reflected in the significant differences in the estimated costs for floating wind. According to DNV (an assurance and risk management provider), the LCOE for floating offshore wind is 252 EUR/MWh, which is more than three times that of fixed offshore wind (75 EUR/MWh). According to THEMA, the costs for floating offshore wind are roughly 140 EUR/MWh.
[70] NVE (2023) Langsiktig kraftmarkedsanalyse 2023.
[71] NO2 is the price area to which the production from Utsira Nord will be connected.
[72] Notification, p.18, footnote 71.

Table 4: Estimated capture prices for offshore wind in NO2

Year	Average electricity price NO2 (NOK/kWh)	Capture price offshore wind (NOK/kWh)	Value factor
2030	0.82	0.81	99 %
2035	0.57	0.53	93 %
2040	0.49	0.42	86 %

Source: Notification[73]

(75) The projections in Table 4 are based on future assumptions. Assumptions regarding the development of CO_2 and fuel prices, electricity consumption and production are crucial for the power price and the capture price. If electricity consumption exceeds these assumptions, prices may rise, leading to a higher capture price. Conversely, more renewable capacity than expected could increase the cannibalisation effect, lowering the capture price for floating offshore wind. Additionally, revenues from long-term Power Purchase Agreements ('PPAs') or guarantees of origin may also influence offshore wind projects.

4.3.3.5 NPV of the reference project

(76) Investment costs and future electricity prices have a significant influence on the expected NPV for the reference project. Table 5 below shows different scenarios for the reference project's NPV. It includes a base case scenario, as well as pessimistic and optimistic case scenarios. The basis for the calculations is comprised of the presented estimated costs, captured prices and expected production. The same assumptions apply as for the LCOE. All estimates include grid infrastructure.[74]

[73] Ibid, footnote 72.
[74] Any investments in the onshore transmission grid are excluded.

Table 5: NPVs including grid infrastructure, values in mill. NOK

Cost sensitivity (+/- 20% CAPEX & OPEX)				
Low cost	**Base case**	**High cost**		
- 23 000	- 28 000	- 33 000	Low price	Income sensitivities
- 17 000	**- 22 000**	- 27 000	Base case	
- 10 000	- 15 000	- 20 000	High price	

Source: Notification[75]

4.3.4 Estimate of subsidy per tonne of CO_2 equivalent emissions avoided

4.3.4.1 Life-cycle emissions

(77) The Norwegian authorities have calculated the estimated subsidy per tonne of CO_2 equivalent (tCO_2e) emissions avoided using the European Innovation Fund's ('IF') methodology.[76] This methodology was also supported by respondents during the public consultation which was conducted by the Norwegian authorities.[77] According to the IF methodology, CO_2 emission avoidance is determined by summing the emissions from the reference scenario and subtracting the emissions from the project activity.

(78) The Norwegian authorities have used the reference project based on the Utsira Nord project areas, with an installed capacity of 506 MW and 4 117 hours of net annual production, to estimate emissions from the project's activity. The CO_2 emission avoidance for the reference project is calculated over a 30-year period, which corresponds with the indicated technical lifetime and licence period for floating offshore wind in Norway.[78]

(79) Life-cycle emissions for the reference project are estimated to 0.011-0.031 tCO_2e/MWh. The lower figure of this interval is based on life-cycle emission estimates for bottom-fixed offshore wind derived from the prequalification applications for Phase I of Sørlige Nordsjø II.[79] According to the Norwegian

[75] Notification, p. 19, footnote 75.
[76] The European Commission (2022) Annex C: Methodology for GHG Emission Avoidance Calculation.
[77] For more details on the public consultation of the measure, reference is made to Section 4.4.
[78] The IF methodology stipulates that CO_2 emissions avoidance is calculated over 10 years. However, consistent feedback from the public consultation argued that CO_2 emissions avoidance should be calculated over 30 years, as this is more realistic. See Norway's estimation of the subsidy per tonne of CO_2 equivalent emissions avoided, p. 3 (Document No 1529144).
[79] Applicants for phase I of Sørlige Nordsjø II delivered life-cycle emissions estimates for a project of 1 400-1 500 MW, based on their project plans. The estimates were in line with the ISO-standards 14040 and 14044, i.e. they cover emissions related to the production of turbines, cables etc., and emissions from installation, operation, and decommissioning. The Norwegian authorities have

authorities, these estimates represent the best available life-cycle emission estimates for offshore wind projects in Norway.[80] The upper figure is based on estimates for a theoretical floating offshore wind farm in Italy which, according to the Norwegian authorities, has several representative characteristics of the reference project.

4.3.4.2 Reference scenario emissions

(80) Reference scenario emissions refer to the emissions that would occur in the absence of the measure, using conventional technology or fuel.[81]

(81) The EU reference scenario 2020 has been applied as the reference scenario in the calculations of estimated subsidies per tCO_2e emissions avoided.[82] The calculations apply the EU reference scenario 2020's emission factor for electricity production in year 2035, which equals 0.13 tCO_2e/MWh.[83]

(82) The budget of the measure, 35 billion NOK, is used as a proxy for estimated subsidies in the calculations. Based on the estimates and methodology described above, estimated subsidies per tCO_2e emissions avoided vary from 4 700 NOK to 5 700 NOK.[84]

4.4 Public consultation

(83) On 28 June 2024, the Norwegian authorities initiated a public consultation for a period of ten weeks ending on 6 September 2024. The consultation document was published on the Government's website in accordance with the national procedure.[85]

(84) The consultation included a detailed explanation of the main features of the measure, including its procedures for awarding project areas and awarding State aid. Moreover, the Norwegian authorities had a questionnaire on relevant aspects of the measure, including the choice of technology, the method used to calculate subsidies per ton of CO_2 emissions avoided, and the selection of the aid instrument.

(85) The Norwegian authorities received 59 submissions from hearing bodies. A summary of the responses, also indicating how these are addressed, was published on the Government's website.

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applied the upper quartile of these estimates, based on input in the public consultation noting that floating offshore wind technology has slightly higher lifecycle emissions than bottom-fixed technology.

[80] Brussa et. al. (2023) Life cycle assessment of a floating offshore wind farm in Italy. Volume 39 of Sustainable Production and Consumption, p. 134-144.

[81] The European Commission (2022) Annex C: Methodology for GHG Emission Avoidance Calculation, p. 64.

[82] The EU reference scenario 2020 is a projection of developments in the EU's power system, transport sector and greenhouse gas emissions up to 2050. The scenario is intended to be used as a benchmark for new policies and measures within energy, transport and climate. Source: European Commission (2021) EU reference scenario 2020.

[83] The European Commission (2021) Main results on energy, transport and GHG emissions (excel), "Carbon intensity indicators" under tab EU_B.

[84] The lower part of this interval is given by the life-cycle emissions based on the Sørlige Nordsjø II applications. The upper part of this interval is given by the estimated life-cycle emissions in Brussa et. al. (2023).

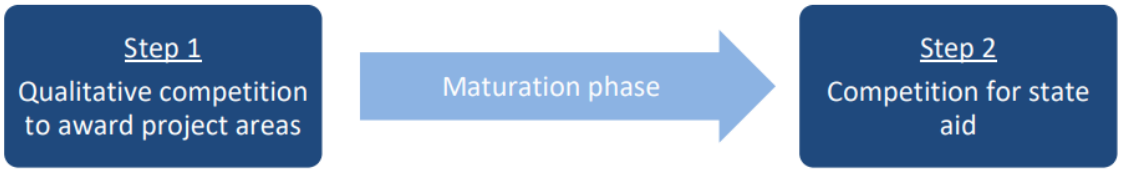
[85] https://www.regjeringen.no/no/dokumenter/horing-av-stotteordning-for-flytende-havvind-i-vestavind-b-og-vestavind-f/id3047348/.

5 Competitive procedure for awarding areas and granting aid

5.1 General description of the two-step model

(86) The Norwegian authorities explain that the process for awarding project areas and granting State aid will consist of two steps, with a dedicated project maturation phase between the two stages to reduce risks related to cost and technology. An overview of the two-step model is presented in Figure 6 below.

Figure 6: Overview of the two-step model



Source: Illustration from the Norwegian authorities

(87) The Norwegian authorities explain that the Ministry will announce a competition for the award of project areas. The competition will be based on qualitative criteria, consistent with the Offshore Energy Act.

(88) In the qualitative competition, applicants will be evaluated based on objective and transparent criteria as outlined in Section 2-3 of the Offshore Energy Act (see Section 3.5.1). The three developers with the highest overall scores will be awarded exclusive rights to explore one project area each.

(89) Once the project areas are awarded, the three successful developers will enter a maturation phase. During this phase, they will refine the project by considering site-specific characteristics. This phase allows developers to develop and refine suitable technologies and gather critical information about costs and how to further optimise the project.

(90) In the second step, the Ministry will conduct a State aid auction ('the Auction'), where all eligible matured projects will compete for State aid. A condition for participating in the Auction is that the developers have applied for a production licence for offshore electricity production pursuant to Section 3-1 of the Offshore Energy Act.

(91) Aid will be awarded to the developer willing to realise its project with the least amount of aid per megawatt. According to the Norwegian authorities, only one of the projects will receive State aid. The Norwegian authorities explain that developers who are unsuccessful in the Auction may request an extended exclusive right to their project area under Section 11 of the Offshore Energy Regulation.

(92) A prerequisite for holding the Auction is that at least two developers have applied for a production licence and completed other formalities necessary to participate in the Auction (e.g. bid guarantees). According to the Norwegian authorities, the developers will be required to provide a bid guarantee in order to participate in the Auction. The Norwegian authorities confirm that the process for bid guarantees will

resemble that of Sørlige Nordsjø II, where the requirement was that bid guarantees were provided two weeks before the auction date.[86]

(93) According to the Norwegian authorities, the Auction will only be held if at least two developers have met these requirements (i.e. that they have applied for a production licence and submitted a bid guarantee).[87] No aid will be granted if no Auction is held.

5.2 Benefits of the two-step model

(94) The Norwegian authorities argue that the two-step model for awarding areas and State aid is well adapted to the early development stage of floating offshore wind.

(95) According to the Norwegian authorities, the two-step model will ensure a higher likelihood of project realisation, minimise the level of support, facilitate rapid technology development, and contribute to a diverse range of developers and a sustainable supply chain in the long term.

(96) The Norwegian authorities explain that in a State aid auction, bidders typically account for the uncertainty of the final development costs by adding risk premiums to their bids. In the early stages of project development, developers have limited information about the project's cost level due to the immaturity of the technology, the lack of reference projects to provide cost estimates, and the need for project-specific customisation. Consequently, the Norwegian authorities argue that if the areas and State aid are awarded simultaneously, developers will include high-risk premiums in their bids (see Figure 7 below).

(97) According to the Norwegian authorities, the two-step model addresses this problem by including a maturation phase before the State aid competition. The activities in this phase can include:[88]

(a) Qualification of new technology to be used in the project;

(b) Geophysical, geotechnical, meteorological, and oceanographic data mapping of the project area and cable routes;

(c) Preliminary design and technical studies for the various components of the wind farm and grid infrastructure;

(d) Project-specific impact assessments;[89]

(e) Optimisation of wind farm layout and energy production based on collected information and data;

(f) Optimisation of financing and insurance solutions based on the project's maturity and overall risk picture; and

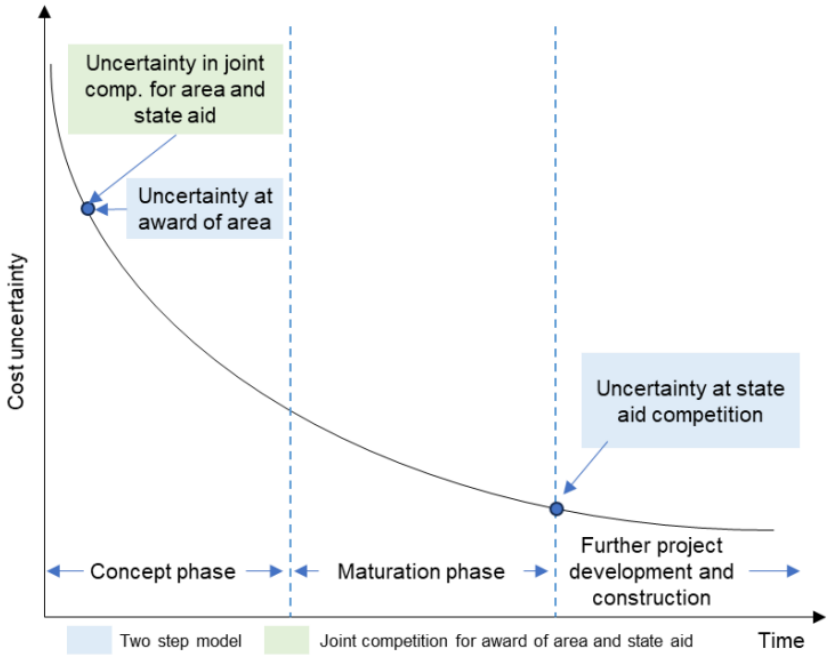
[86] ESA Decision 194/23/COL, *Phase I of Sørlige Nordsjø II*, paragraph 211.
[87] This is similar to the rules for the State aid auction in Sørlige Nordsjø II (see ESA Decision 194/23/COL, *Phase I of Sørlige Nordsjø II*, paragraph 211).
[88] Renewables Norway (2024) Utsira Nord – the need for project maturation and the two-stage competition model, p.3.
[89] The Offshore Energy Regulation, Section 4a.

(g) Maturation of the supplier chain/relationships.

(98) The Norwegian authorities explain that floating offshore wind developers have consistently stressed that having exclusive rights to the area is essential for advancing project development. Moreover, they emphasise that a large proportion of the activities related to project development are site-specific and require customised solutions for floating offshore wind. Developers also report that they are not awarded sufficient attention and capacity from key suppliers before securing exclusive rights to areas, as suppliers do not wish to prioritise resources on projects with an unclear path to realisation.

(99) The Norwegian authorities submit that the maturation phase will lower the project risk since the time-limited exclusive rights to the area to conduct a maturation phase and apply for a licence allow for more costs certainty before bids are submitted, which in turn could lead to lower premiums in the State aid auction. It may also lead to lower capital costs, as potential private investors will also consider the risk of the project when investing.

Figure 7: Illustration of cost uncertainty in the two-step model vs. one-step model awarding project areas and State aid



Source: Notification. Based on the Norwegian authorities' assumption that project maturation will include optimisation to reduce cost and increase efficiency.[90]

5.3 Two-step model in more detail

5.3.1 Step 1

(100) All developers interested in developing floating offshore wind have the possibility to compete for an exclusive right to explore one of the three project areas.

(101) In step 1, the qualitative competition, the developers will be assessed based on objective and transparent criteria pursuant to Section 2-3 of the Offshore Energy Act. The three developers with the highest overall scores will be awarded exclusive

[90] Renewables Norway (2024) Utsira Nord – The need for project maturation and the two-stage competition model, p. 2.

rights to explore one project area each. The successful developers will then have a time-limited exclusive right to conduct a project-specific impact assessment and to apply for a production licence.

(102) The following five main criteria will be assessed as part of the competition for allocating the project areas:

1. **Cost levels, realism and maturity**: Developers will be ranked on cost estimates for developing a 500 MW floating offshore wind project at Utsira Nord. This criterion will be evaluated by Enova,[91] since it has extensive experience in assessing cost estimates for immature technologies, including floating offshore wind projects. Moreover, this criterion will carry a 35% weight in the overall assessment.
   The assessment of the criterion is subdivided into seven distinct sub-criteria, where the numerical cost estimates will only play a minor part. The predominant weight will be based on the following documentation provided by the developer:

   (i) on the methodology employed in the development and estimation of the cost projections;
   (ii) on delineating the maturation and qualification of the technology;[92]
   (iii) on the processes and dialogue with main suppliers;
   (iv) on calculations of annual energy production;
   (v) on the computation of operation and maintenance cost;
   (vi) on the execution of uncertainty analysis and the strategy for risk management; and
   (vii) on the developer's experience and competence in achieving historical cost reductions in relevant fields.

   While lower cost estimates will be weighted positively, most weight will be placed on the maturity, realism, strategies, and processes culminating in the final estimates. Unrealistic, immature and/or unsubstantiated cost estimates will give a lower score to mitigate risks of the developers presenting overly optimistic cost estimates.

2. **Execution capability**: this criterion will be given 35% of the weight in the overall assessment. Developers must demonstrate that they have sufficient financial resources, technical competence, and experience to carry out the project within a timeframe and cost estimates. This is important to ensure that the most realistic and cost-efficient project is chosen. Developers will also have to submit information on reference projects, plans for financing and project plans. This criterion will be assessed by the Ministry, with assistance from the Norwegian Ocean Industry Authority and Gassnova SF.[93]

[91] Enova is a State enterprise owned by the Ministry of Climate and Environment.
[92] This relates to how the technology has been matured and qualified up to now. Such classification can, for example, be carried out by an assurance and risk management provider such as DNV through various flow tests or similar assessments.
[93] Gassnova SF is a Norwegian State enterprise which purpose is to help achieve the goals or objectives set by the Government around carbon capture and storage.

3. **Sustainability**: This criterion will account for 10% of the overall assessment. This criterion aims to ensure the environmentally friendly development of the floating offshore wind farm. Therefore, the developers will be asked for a plan for coexistence and minimising impacts on climate and environment. NVE will be responsible for evaluating the applications against this criterion. NVE is the regulatory authority responsible for licensing energy projects, both offshore and on land. It therefore has extensive expertise in evaluating the environmental impact of energy facilities.

4. **Innovation and technological development**: As part of their applications, developers must describe how their project will promote innovation and technology development that result in reduced costs for future floating offshore wind projects (including estimates for LCOE) and the potential for dissemination. This criterion will account for 10% of the overall assessment. Enova will be tasked with assessing this criterion.

5. **Positive ripple effect:** 10% of the weight will be put on the possibility of contributing to build experience and developing expertise in the supply chains. The criterion does not include any location-specific requirements and aims to foster industrial development by enhancing experience and competence within the supply chains. The Ministry will assess this criterion.

(103) The Norwegian authorities explain that the selection criteria specify and implement the statutory objectives and societal aims of the Offshore Energy Act and governmental white paper.[94] These criteria also address the statutory requirements regarding satisfactory technical competence, financial strength, and relevant health, environment and safety requirements.[95]

(104) According to the Norwegian authorities, the announcement documents will outline how the developers will be assessed based on the qualitative criteria (including sub-criteria), and how they can fulfil these criteria through documentation. The criteria and the process for ranking the applications will be made available to all developers free of charge. Moreover, the Norwegian authorities confirm that the announcement documents will contain sufficient details for developers to understand how to fulfil the criteria, and how and when to apply.

(105) The criteria aim to ensure that the exclusive rights to project areas are awarded to the developers with the best qualifications to maximise the potential for project realisation in line with regulatory objectives, while minimising the cost for the State.

5.3.2 Step 2

(106) In between Step 1 and Step 2, a maturation phase will take place. During this phase, the developers will carry out project-specific impact assessments, technology maturation, and other activities as described above in paragraph (97).

(107) In Step 2, the Auction will be organised between the winners of the competition in Step 1. To participate in the Auction, developers must apply for a production licence

[94] Section 1-1 of the Offshore Energy Act, White paper (Meld. St. 11 (2021-20221)).
[95] Section 2-3 of the Offshore Energy Act.

(see Section 3.5.1). Only one developer will be granted State aid to develop its project.

(108) The Auction is planned to take place approximately two years after the award of the project areas. This timeline also corresponds with the regulatory deadline to apply for a production licence under the Offshore Energy Act, and the expected time required to conduct the associated project-specific impact assessments.

(109) The bid structure of the Auction is based on aid per MW for a project of approximately 500 MW. Bids will be ranked based on their required aid amount in proportion to the stated capacity of the developer's project. The project with the lowest bid in aid/MW will win the Auction.

(110) The Auction will be a first-price, sealed bid auction. According to the Norwegian authorities, the first-price mechanism compels each bidder to submit their best and final offer right from the start.

(111) The Auction will have a pre-determined lowest and highest capacity threshold for potential project capacity. The maximum capacity is 500 MW, and the minimum permitted capacity will be set slightly below 500 MW. This allows developers to optimise turbine sizes for their projects. Bids that fall outside of this capacity range will not be considered. If no bids are received within the specified capacity range, the Auction will have no winner and no aid will be awarded.

(112) Developers that are unsuccessful in the Auction will not have a legal right to participate in future auctions. However, they may request an extension of their exclusive exploration right to their project area, pursuant to Section 11 of the Offshore Energy Regulation.

(113) The winner of the Auction will enter into an investment aid agreement ('Aid Agreement') with the Ministry. The Aid Agreement will outline provisions for project execution, including progress and milestones, and require the beneficiary to follow a specified project plan. Failure to meet these requirements may lead to daily penalties and a reduction in the State aid award.

(114) The aid will cover part of the project costs and reduce the project risk for the beneficiary during the development phase. At the same time, the developer will take on the price risk of electricity during the operational lifetime of the floating offshore wind farm.

(115) Moreover, a substantial part of the total aid will only be paid after the project is completed. According to the Norwegian authorities, this will increase the incentives for completing the project on time and in accordance with the specifications and will reduce the risk of State aid being spent on a non-realised project.

5.4 Legal basis

(116) The legal basis for the aid will be a Parliamentary Decision authorising support to floating offshore wind in Utsira Nord,[96] and the Aid Agreement entered into by the State and the beneficiary.

(117) The legal basis for awarding project areas is the Offshore Energy Act and its regulations, see Section 3.5.1.

5.5 Budget and duration

(118) The maximum budget of the measure is NOK 35 billion.[97]

(119) The Auction and the aid award by way of concluding the Aid Agreement are planned to take place in 2028-2029.

5.6 Granting authority

(120) The aid under the measure will be granted and administered by the Ministry.

(121) The Ministry may authorise another party, such as a State enterprise, to represent the Norwegian authorities in connection with the Aid Agreement.

5.7 The aid instrument and clawback mechanism

5.7.1 Aid instrument

(122) The aid will be granted in the form of a direct grant.

(123) The aid amount will be determined by the Auction, and limited by the measure's budget, see paragraph (118).

5.7.2 Clawback mechanism

(124) The Norwegian authorities will introduce a clawback mechanism to safeguard against overcompensation. The clawback mechanism will be linked to future electricity prices and take effect in the event of unexpectedly high electricity prices, and corresponding revenues, over a longer period.

(125) The Norwegian authorities explain that the clawback mechanism will be based on the following parameters:

1. **Income distribution:** In the event of extraordinarily high electricity prices, and correspondingly high earnings for the beneficiary, there should be an income distribution between the State and the beneficiary. The distribution principle is set out under 'Distribution key' below.
2. **Threshold price:** The threshold price determines when a share of the income from electricity sales should accrue to the State. The Ministry will set this threshold in advance of the Auction. The threshold price is intended to reflect the level where the electricity prices have become extraordinarily high. The Ministry will use NVE's

[96] The Government's proposal in Prop. 1 S (2024–2025) and the Parliament's approval of the State budget 2025.
[97] In 2025 value.

latest high estimates when setting the threshold price,[98] and add 25%.[99] The Norwegian authorities explain that the threshold price is meant to reflect extraordinarily high electricity prices, therefore 25% is added to NVE's latest high estimate for NO2. According to the Norwegian authorities, adding 25% to NVEs high price estimate addresses the need to curb extraordinarily high electricity prices, while maintaining a balance between the potential upside and downside price risks for the beneficiary.[100] The threshold price will also be adjusted for inflation.

3. **Reference price:** The reference price will be calculated as an annual production-weighted average. This will ensure that the calculation to a larger degree reflects actual income.
4. **Distribution key:** The distribution key will be 50/50, therefore 50% of the income above the threshold price will accrue to the State.
5. **Calculation of payment:** The income above the threshold price will be calculated annually by determining the difference between the threshold price and the reference price, and multiplying this with the volume sold to spot price. 50% of the income would then be paid from the developer to the State.
6. **Duration:** The clawback mechanism will apply for 15 years from the date of commissioning of the wind farm.

(126) The Norwegian authorities submit that the clawback mechanism will ensure that the developers still have the right incentives while preventing overcompensation.

5.8 Transparency and cumulation

(127) The Norwegian authorities confirm that they will comply with the transparency requirements in Section 3.2.1.4 CEEAG. Furthermore, the Norwegian authorities have confirmed that the aid award and associated information will be published on Norway's national State aid website.

(128) The Norwegian authorities do not anticipate that aid under this measure will be combined with other State aid measures or centrally managed Union funding for the same eligible costs. The Norwegian authorities explain that in the Aid Agreement, it will be specified that cumulation of aid under the measure with other types of aid is subject to prior written consent from the Ministry.

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[98] NVE publishes long-term power market analysis with estimates for average yearly electricity prices (nearly annually). NVE's latest analysis is available here: Utviklingen i kraftmarkedet mot 2050 - NVE. The Ministry deems the estimates from NVE to be reliable and objective projections of future electricity prices.

[99] In the latest NVE analysis, there were estimates for 2030, 2035, 2040 and 2050. If the NVE analysis similarly has estimates for intervals when the Ministry sets the threshold price, the threshold price will also be based on these intervals. E.g. initially the calculation is based on the estimate for 2030, yearly adjusted for inflation until 2035, and then based on the estimate for 2035 and so on for the duration of the mechanism.

[100] For comparison, the EU, as part of its measures to address high energy prices, set a temporary cap on market revenues of electricity producers of 180 EUR per MWh in order to limit "extraordinary revenues" in Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices, while leaving "a margin on the price that investors could reasonably have expected", see recitals 25 and 27-29.

(129) If cumulation with other aid is permitted, the Norwegian authorities will ensure that the total aid for a project or an activity does not result in overcompensation or exceed the maximum amount allowed under the CEEAG. If this occurs, the Norwegian authorities commit to inform and submit any cumulation mechanisms to ESA.

5.9 Ex-post evaluation

(130) The Norwegian authorities have notified, together with the measure, a draft evaluation plan covering the measure and taking into account the best practices recalled in the Commission Staff Working Document on a Common methodology for State aid evaluation ('the Commission Common Methodology').[101]

(131) In line with the requirement of point 458 CEEAG, the ex-post evaluation will verify whether the assumptions and conditions underlying the compatibility of the scheme have been achieved, in particular the necessity and effectiveness of the scheme.

(132) The Norwegian authorities will procure an independent expert to draft the evaluation plan and conduct the evaluation, in accordance with point 461 CEEAG and Section 3.7.13 of the Commission Common Methodology. To ensure optimal alignment of the ex-post evaluation with the requirements in chapter 5 CEEAG and the Commission Common Methodology, the independent expert will be involved in the drafting process of the evaluation questions, the result indicators, the envisaged methods to conduct the evaluation and the data collection.[102]

(133) The Norwegian authorities confirm that the complete evaluation plan for the scheme will be submitted to ESA no later than one year after the approval of the measure.

(134) The Norwegian authorities commit to submit an interim evaluation report to ESA in the course of 2030. The final evaluation report will be submitted no later than at the end of 2035, depending on when the project will be in operation. The Norwegian authorities confirm that the interim and final evaluation report will be made public in accordance with point 461 CEEAG.

5.10 Undertakings in difficulty and undertakings with outstanding recovery order

(135) Point 14 CEEAG states that aid for environmental protection and energy cannot be awarded to undertakings in difficulty as defined in the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty.[103]

(136) The Norwegian authorities confirm that the condition in point 14 CEEAG will be respected. Undertakings must declare, before participating in the Auction, that they are not an undertaking in difficulty, as defined in the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty.

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[101] Commission Staff Working Document on Common methodology for State aid evaluation, 28.5.2014, SWD (2014) 179 final, cf. CEEAG point 460, SEC (2022) 70 final.

[102] See Document No 1530141, p. 7.

[103] Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ L 271, 16.10.2015, p. 35, and EEA Supplement No 62, 15.10.2015, p. 1).

(137) The Norwegian authorities have committed to ensuring that no aid will be granted to undertakings subject to an order to recover incompatible State aid, issued by ESA or the European Commission, which has yet to be effectively implemented.

(138) This will be ensured by requiring participating undertakings to declare before the Auction that they have repaid any aid deemed illegal and incompatible with the internal market by ESA or the European Commission.

6 Presence of State aid

6.1 Introduction

(139) Article 61(1) of the EEA Agreement reads as follows: "Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement."

(140) The qualification of a measure as aid within the meaning of this provision requires the following cumulative conditions to be met: (i) the measure must be granted by the State or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.[104]

6.2 Presence of State resources

(141) The measure must be granted by the State or through State resources.

(142) The measure takes the form of a direct grant awarded to the development of floating offshore wind, which will be funded through the Norwegian State budget. The Ministry or an entity authorised by the Ministry will allocate the funds to the winner of the Auction. ESA therefore considers that the measure is financed through State resources and is imputable to the Norwegian State.

6.3 Conferring a selective advantage on an undertaking

(143) The measure must confer on certain undertakings a selective advantage that relieves them of charges that are normally borne from their budget.

(144) The measure will confer an economic advantage on the beneficiary in the form of direct grants (see paragraph (122)). The direct grant will cover part of the developer's costs in developing and building floating offshore wind farms in Utsira Nord. The measure therefore confers an advantage that the beneficiary would not have obtained under normal market conditions.

(145) Moreover, as the beneficiary will be engaged in economic activities such as developing offshore windfarms and producing electricity, the advantage is conferred on an undertaking.

(146) Furthermore, the measure is selective, as support under the measure will only be made available to that undertaking, i.e. the beneficiary which wins the Auction.

[104] See judgment of 2 September 2010, *Commission* v *Deutsche Post,* Case C-399/08 P, EU:C:2010:481, paragraphs 38 and 39 and the case-law cited.

(147) Accordingly, the second and third conditions of Article 61(1) of the EEA Agreement are fulfilled since the measure will confer a selective economic advantage on an undertaking.

6.4 Effect on trade and distortion of competition

(148) The measure must be liable to distort competition and to affect trade between the Contracting Parties to the EEA Agreement.

(149) The measure is liable to distort competition and to affect trade between the Contracting Parties to the EEA Agreement, as the electricity market has been liberalised, and electricity producers engage in trade between EEA States. The Norwegian authorities have explained that the electricity generated by the wind farm in Utsira Nord will be fed into the Norwegian transmission system, where it will compete with electricity from different sources (such as electricity from other renewable energy sources ('RES'), conventional and nuclear sources) and from different EEA States. Therefore, all potential beneficiaries are engaged in intra-EEA trade.

(150) The measure is therefore liable to distort competition and affect trade.

6.5 Conclusion

(151) In view of the assessment set out in the above paragraphs (141)-(150), ESA finds that the measure fulfils all the conditions in Article 61(1) of the EEA Agreement. It therefore constitutes State aid within the meaning of this provision.

7 Aid scheme

(152) Article 1(d) of Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ('Protocol 3 SCA') sets out two situations qualifying as 'aid scheme', the first being "any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner."

(153) That definition of an "aid scheme" therefore entails the following three criteria:

i) any act on the basis of which the aid can be awarded;
ii) which does not require any further implementing measures; and
iii) which defines the potential aid beneficiaries in a general and abstract manner.

(154) The term "act" in Article 1(d) of Part II of Protocol 3 SCA refers to the measures constituting an aid scheme from which it is possible to identify the essential characteristics necessary for that act to be classified as a State aid measure, for the purposes of Article 61(1) of the EEA Agreement.[105]

(155) In the present case, aid is awarded on the basis of the Offshore Energy Act, the Parliamentary Decision authorising support to floating offshore wind in Utsira Nord, and the Aid Agreement entered into by the State and the beneficiary, (see Section 5.4.) Moreover, since the Norwegian authorities have also defined the relevant

[105] Judgment of 16 September 2021, *Commission* v *Belgium and Magnetrol International*, Case C-337/19 P, EU:C:2021:741, paragraph 78.

budget, no further implementing measures are required for the granting of aid within the meaning of Article 1(d) of Part II of Protocol 3 SCA. Hence, aid is awarded under an act and the aid award under that act does not require any further implementing measures.

(156) Further, the act, which will be the basis for the aid, defines the circle of potential beneficiaries in a general and abstract manner. In this respect, ESA reiterates that the act, consisting of Section 2-3 of the Offshore Energy Act and the competition documents defined on that basis, employs objective criteria for regulating what entities will be invited to participate in the competition. Therefore, ESA considers that aid beneficiaries are defined in a general and abstract manner.[106]

(157) On this basis, ESA concludes that the measure constitutes an aid scheme.

8 Lawfulness of the aid

(158) Pursuant to Article 1(3) of Part I of Protocol 3 SCA: "The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. … The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision."

(159) The Norwegian authorities have notified the measure and have yet to let it enter into force as the Auction will first take place after the approval of the measure. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3 SCA.

9 Compatibility of the aid

9.1 Introduction

(160) In derogation from the general prohibition against State aid laid down in Article 61(1) of the EEA Agreement, aid may be declared compatible if it can benefit from one of the derogations enumerated in the Agreement. The Norwegian authorities invoke Article 61(3)(c) of the EEA Agreement as the basis for the assessment of the compatibility of the aid measure.

(161) Article 61(3)(c) of the EEA Agreement provides that ESA may declare compatible "aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest".

(162) The CEEAG set out conditions according to which aid measures in respect of climate, environmental protection and energy will be declared compatible with the EEA Agreement on the basis of its Article 61(3)(c). Therefore, where an EEA State has demonstrated that an aid measure fulfils the applicable conditions in CEEAG, ESA will approve the measure in question.

(163) The measure concerns State aid to produce renewable energy through support for development of floating offshore wind farms.

[106] ESA notes that that assessment is also in line with its previous case practice, see ESA Decision 194/23/COL, *Phase I of Sørlige Nordsjø II,* paragraph 131.

(164) The CEEAG and specifically Section 4.1 thereof set out the criteria under which State aid can be granted for the reduction and removal of greenhouse gas emissions, including through support for renewable energy and energy efficiency.

(165) ESA will therefore assess the measure pursuant to the compatibility provisions in Section 3 CEEAG, where applicable, as well as the specific compatibility criteria for aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy and energy efficiency set out in Section 4.1 CEEAG.

9.2 Positive condition: the aid must facilitate the development of an economic activity

9.2.1 Contribution to the development of an economic activity

(166) The State aid measure must facilitate the development of certain economic activities or areas to be declared compatible with the functioning of the EEA Agreement on the basis of its Article 61(3)(c).[107]

(167) Pursuant to point 23 CEEAG, EEA States must identify the economic activities facilitated by the aid and how the development of those activities is supported. Point 25 CEEAG further requires that EEA States describe the expected benefits of the aid in terms of its material contribution to environmental protection, or the efficient functioning of the internal energy market. Furthermore, it follows from the same point in the CEEAG that EEA States must identify how the aid will contribute to the achievement of the objectives of the climate, environmental and energy policies of the EEA.

(168) As explained by the Norwegian authorities, the measure is designed to induce the economic activity of electricity production from floating offshore wind farms that is to be developed in Utsira Nord. These activities will also include the construction and operation of the floating offshore wind farm. In this regard, the Norwegian authorities have highlighted that the measure will facilitate innovation and technological development for floating offshore wind, and mature and increase the capacity in the supply chain to cater for future demand, see paragraphs (40) and (41).

(169) In terms of the contribution to environmental protection, the Norwegian authorities note that the floating offshore wind farms will generate electricity through renewable wind power. The electricity produced can be used to achieve decarbonisation by replacing energy sources associated with higher greenhouse gas emissions, see paragraph (16).

(170) The measure will therefore contribute to the fulfilment of the climate targets applicable in Norway and to compliance with the agreements between Norway and its international partners, including the EU.[108]

(171) Based on the information provided by the Norwegian authorities, ESA finds that the measure will facilitate the economic activity of renewable electricity production from the future floating offshore wind farm, as well as various associated economic activities, including development of the supply chain, which are necessary for its

[107] Judgment of 22 September 2020, *Austria* v *Commission (Hinkley Point C)*, Case C-594/18 P, EU:C:2020:742, paragraph 19.
[108] Section 3.1.2 of the CEEAG.

construction and operation. Moreover, based on the reasoning set out in Sections 9.2.2 to 9.4 below, ESA finds that the measure is a prerequisite for ensuring that the wind farm will be built and operated within the desired timeframe.

(172) Against this background, ESA concludes that the aid facilitates the development of certain economic activities within the meaning of Article 61(3)(c) of the EEA Agreement.

9.2.2 Incentive effect

(173) State aid can only be considered to facilitate an economic activity if it has an incentive effect. An incentive effect occurs when the aid induces the beneficiary to change its behaviour towards the development of an economic activity pursued by the aid, and if this change in behaviour would not occur without the aid.[109]

(174) To demonstrate the presence of an incentive effect, point 28 CEEAG requires the identification and quantification of both the factual scenario and the likely counterfactual scenario in the absence of aid, based on the quantification outlined in Section 3.2.1.3 CEEAG.

(175) Furthermore, points 28, 38 and 90 CEEAG require the incentive effect and necessity of aid to be demonstrated through a quantification for the reference projects supported under the scheme. Point 52 CEEAG explains that a counterfactual scenario may consist in the beneficiary not carrying out an activity or investment. Where evidence supports that this is the most likely counterfactual scenario, the net extra cost may be approximated by the negative NPV of the project in the factual scenario without the aid over the lifetime of the project. In addition, as detailed in paragraphs (109) to (111), the aid amount is determined through a competitive bidding process, in accordance with point 49 CEEAG. Therefore, a detailed assessment of the net extra cost is not required.

(176) ESA notes that the Norwegian authorities have provided the reference project as the factual scenario, representing floating offshore wind technology for the proposed area (see Section 4.3.3.2). They consider the most likely counterfactual scenario to be that the beneficiary would not proceed with the investment in the absence of aid due to the funding gap (see Section 4.3.3.5).

(177) With reference to the Norwegian authorities' assumptions described in Section 4.3.3, ESA finds that the reference project would not be undertaken without aid. The Norwegian authorities have provided a quantification of relevant costs and revenues for the reference project, representing the current technology for electricity production from a floating offshore wind farm. This quantification shows a significant negative NPV (a funding gap), indicating that the project would not be profitable without aid and, therefore, would not typically be pursued by a rational investor without additional support.

(178) ESA notes that these estimates are based on publicly available data, the strategic impact assessment and data provided by an external consultant, see paragraphs (67), (70) and (76).

[109] Section 3.1.2 of the CEEAG. See also judgment of 15 December 2022, *Veejaam and Espo* v *Elering*, Case C-470/20, EU:C:2022:981, paragraph 28.

(179) Furthermore, as noted in Section 4.3.3.1, ESA observes that floating offshore wind technology is still immature in Norway. The electricity produced by this technology cannot compete, under market conditions, with electricity produced by existing conventional electricity generation in Norway due to the difference between investment costs and the NPV of expected operating benefits from the investment without aid.

(180) Based on the information provided by the Norwegian authorities, ESA considers that, in the absence of aid, the beneficiary has no incentive to undertake the necessary investment and operational decisions to carry out the floating offshore wind farm project in Utsira Nord. Therefore, the aid measure has an incentive effect, fulfilling the conditions set out in point 28 CEEAG.

(181) Point 29 CEEAG outlines that: "*aid does not have an incentive effect for the beneficiary in cases where the start of works on the project or activity took place prior to a written aid application by the beneficiary to the national authorities. In cases where the beneficiary starts implementing a project before applying for aid, any aid granted in respect of that project will, in principle, not be considered compatible with the internal market.*"

(182) As noted in Section 5, the aid will be granted based on a competitive bidding process in Step 2. ESA notes that work on constructing the floating offshore wind farm will only start after the candidates have submitted their bids, see paragraph (31). Therefore, ESA finds that the future winner of the State aid tender will submit its aid application to the Norwegian authorities before the start of work on the project, in accordance with point 29 CEEAG.[110]

(183) Point 30 CEEAG states that any aid application must include at least the applicant's name, a description of the project, and the amount of aid required for its implementation. As aid will be granted based on a competitive bidding process, where developers will submit their bids with their name, a description of the project, and the aid per MW required for the project, ESA finds that these requirements are met.

(184) Finally, ESA notes that the development of a floating offshore wind farm is not mandated by binding EU/EEA standards and concludes that the measure therefore complies with point 32 CEEAG.

(185) On the basis of the above, ESA finds that the aid has an incentive effect, as the measure encourages the beneficiary to adjust its behaviour in favour of developing electricity production from an offshore wind farm and to undertake investments that would not be made without the aid.

9.2.3 Compliance with other provisions of EEA law

(186) According to point 33 CEEAG: "*If the supported activity, or the aid measure or the conditions attached to it, including its financing method when it forms an integral*

[110] The Offshore Energy Regulation, Section 10(3), prohibits the construction and operation of the facility before the detailed plan is approved by NVE.

part of the measure, entail a violation of relevant Union law, the aid cannot be declared compatible with the internal market."[111]

(187) The Norwegian authorities have confirmed that neither the aid measure nor the conditions attached to it, including the financing method, entail a violation of relevant EEA law.

(188) The Norwegian authorities have further committed that national regulation will adhere to applicable EEA rules governing third-party access, see Section 3.5.2.

(189) Based on the information submitted by the Norwegian authorities, ESA has no reason to believe that the notified measure or its attached conditions could infringe any provision of EEA law other than those related to State aid. Therefore, the conditions set out in point 33 CEEAG are met.

9.2.4 Conclusion

(190) ESA concludes that the measure meets the first (positive) condition for assessing compatibility. As stated above, the aid measure contributes to the development of an economic activity, specifically, the production of renewable energy in Norway from offshore wind power, in accordance with the requirements set out in Section 3.1 CEEAG.

9.3 Negative condition: the aid cannot unduly affect trading conditions to an extent contrary to the common interest

9.3.1 The need for State intervention

(191) Point 89 CEEAG states that the State must identify the policy measures already in place to reduce greenhouse gas emissions.

(192) Moreover, to demonstrate the need for aid, points 38 and 90 CEEAG require the State to show that the reference project would not be realised without aid, considering the counterfactual scenario and relevant costs and revenues, including those linked to the policy measures identified in point 89 CEEAG. Point 91 CEEAG explains that once the State has demonstrated the necessity of aid, ESA assumes that there is a residual market failure that can be addressed through decarbonisation aid, unless proven otherwise.

(193) Norway has identified policy measures already in place to reduce greenhouse gas emissions in line with point 89 CEEAG, see Section 4.3.2.

(194) Furthermore, ESA considers that the Norwegian authorities have demonstrated that the reference project would not be carried out without the aid even with the existence of policy measures that benefit floating offshore wind developers. The results of the funding gap analyses for the reference projects show that without the support, the NPV of the floating offshore wind farm is highly negative (see tables referred to in paragraph (76)). According to the Norwegian authorities, due to uncertainties in costs, appropriate technology etc., a floating offshore wind farm in Utsira Nord would not generate sufficient revenue to cover its investment and operational costs. ESA therefore considers that the conditions set out in point 90 CEEAG are met. This implies that without any further support measures,

[111] See also judgment of 22 September 2020, *Austria* v *Commission (Hinkley Point C)*, Case C-594/18 P, EU:C:2020:742, paragraph 44.

developers would not have an incentive to invest in developing a floating wind farm, as the investment would be highly unprofitable. Hereby, Norway has proven that there is a need for aid, and according to point 91 CEEAG, ESA presumes that a residual market failure remains which can be addressed through aid for decarbonisation.

(195) The Norwegian authorities expect the Auction and the aid award to take place in 2028-2029 (see Section 5.5). In accordance with point 92 CEEAG, the Norwegian authorities confirm that the analysis of relevant costs and revenues will be updated before aid is granted if the scheme runs for more than 3 years.

(196) Based on the information provided by the Norwegian authorities, ESA concludes that the measure is necessary to support the targeted economic activity in a way that enhances environmental protection.

9.3.2 The appropriateness of the aid

(197) Point 93 CEEAG states that appropriateness of State aid for achieving decarbonisation goals is presumed when all other compatibility conditions are met. It further sets out that, given the scale and urgency of the decarbonisation challenge, a variety of instruments, including direct grants, may be used.

(198) ESA therefore considers that, in light of the overall assessment of the compatibility of the measure (see Sections 9.2 to 9.4), the aid in the form of direct grants to support the production of renewable electricity by developing floating offshore wind farms is an appropriate instrument to support the targeted economic activity and, moreover, in a manner that increases environmental protection.

9.3.3 Eligibility

(199) Point 95 CEEAG explains that decarbonisation measures targeting specific activities which compete with other unsubsidised activities can be expected to lead to greater distortions of competition, compared to measures open to all competing activities. As such, States should give reasons for measures which do not include all technologies and projects that are in competition. Furthermore, States must regularly review eligibility rules, and any rules related thereto to ensure that reasons provided to justify a more limited eligibility continue to apply for the lifetime of each scheme, as set out in point 97 CEEAG.

(200) ESA notes that the measure is limited to a single renewable energy production technology, namely floating offshore wind. ESA acknowledges the reasons provided by the Norwegian authorities for restricting the tender to this specific technology and a single offshore area (see Section 4.2.1).

(201) Regarding the limitation to a single technology, ESA observes that Utsira Nord is not suitable to bottom-fixed offshore wind turbines or other offshore energy production technologies, due to the depth and ocean conditions. Moreover, the costs of floating offshore wind in Norway are higher than those of other renewable energy technologies. If floating offshore wind were to compete with other offshore energy production technologies, it is likely that it would not be selected due to its lower competitiveness. ESA also notes that the Norwegian authorities consider this innovative technology capable of making a significant and cost-effective contribution to environmental protection and long-term decarbonisation (see paragraphs (16) to (18)), as provided in point 96(d) CEEAG.

(202) Consequently, ESA considers that these factors justify, in light of point 96 (particularly point 96(d)) CEEAG, the restriction of the tender to a single technology and a single offshore area.

9.3.4 Public Consultation

(203) Point 99 CEEAG requires EEA States to consult publicly on the competition impacts and proportionality of proposed measures, prior to the notification of aid as of 1 July 2023.

(204) Point 99(a) CEEAG states that for aid measures where the average annual aid to be granted is at least EUR 150 million, the public consultation must last at least six weeks and cover the following topics: (i) eligibility; (ii) method and estimate of subsidy per tonne of CO_2 equivalent emissions avoided (per project or reference project); (iii) proposed use and scope of competitive bidding processes and any proposed exceptions; (iv) main parameters for the aid allocation process including for enabling competition between different types of beneficiaries; (v) main assumptions informing the quantification used to demonstrate the incentive effect, necessity and proportionality; (vi) where new investments in natural gas based generation or industrial production may be supported, proposed safeguards to ensure compatibility with the EU/EEA's climate targets.

(205) According to point 101 CEEAG, consultation questionnaires must be published on a public website. The State must also publish a response to the consultation, which summarises and addresses the received input and explains how the possible negative impacts on competition have been minimised through the scope or eligibility of the proposed measure. They must also provide a link to their response to the consultation as part of the notification.

(206) ESA notes that the Norwegian authorities initiated a public consultation phase on 28 June 2024 for 10 weeks, which was published on the Government's website, regjeringen.no (in Norwegian), according to national procedure (see Section 4.4). The duration of the public consultation therefore complied with the six-week duration requirement in point 99(a) CEEAG. Moreover, as noted in footnote 61 CEEAG, States may rely on existing national consultation processes in respect of the public consultation requirement, if the consultation covers the points listed in CEEAG and runs for the required period of time. The consultation process was therefore in compliance with point 99(a) CEEAG.

(207) ESA further notes that according to the consultation, the Norwegian authorities addressed all the required elements outlined in point 99(a) (i) to (v) CEEAG.[112] As the scheme does not support investment in natural gas-based generation or industrial production, topic (vi) was not included in the consultation questionnaire.

(208) On 2 April 2025, the Norwegian authorities published a summary of the responses, which indicates how these responses are addressed, and which is available on the Government's webpage,[113] as provided for in point 101 CEEAG. In the summary, the Norwegian authorities have outlined how the possible negative impacts on

[112] See published consultation paper here: Høring av støtteordning for flytende havvind i Vestavind B og Vestavind F - regjeringen.no.
[113] Summary of the responses (Oppsummering-av-innspill-fra-horingen.pdf).

competition of the measure have been minimised through an adaptation of its scope.

(209) Therefore, the public consultation conducted by the Norwegian authorities meets the requirements listed in points 99 and 101 CEEAG.

9.3.5 Proportionality of the aid

(210) According to point 47 CEEAG, State aid is proportionate if the aid amount per beneficiary is limited to the minimum needed for carrying out the aided project or activity.

(211) Under point 48 CEEAG, in order to demonstrate that the aid is limited to the minimum necessary, it is generally necessary to assess whether the aid corresponds to the net extra cost[114] necessary to meet the objective of the aid measure, compared to the counterfactual scenario in the absence of aid. Points 51 to 54 CEEAG specify how the net extra cost is to be determined.

(212) However, under point 49 CEEAG, a detailed assessment of the net extra costs is not required if the aid amounts are determined through a competitive bidding process, as further detailed in that provision. Additional conditions are found in point 50 CEEAG.

(213) As regards aid for reducing greenhouse gas emissions, point 103 CEEAG states that such aid should, in general, be granted through a competitive bidding process, while under point 104 CEEAG, the bidding process should, in principle, be open to all eligible beneficiaries.

(214) The criteria set out in point 49 CEEAG allowing ESA to conclude that the proportionality of the aid is ensured and eliminating the need for a detailed assessment of the net additional costs necessary for the investment are as follows:

(a) The bidding process must be open, clear, transparent, and non-discriminatory, based on objective criteria defined in advance, in line with the measure's objective, and minimising the risk of strategic bidding.

(b) The criteria must be published well in advance of the application deadline to allow for effective competition.

(c) The budget or volume linked to the bidding process must act as a binding constraint, ensuring that not all bidders necessarily receive aid, that the expected number of bidders is sufficient to guarantee effective competition, and that any undersubscribed tender processes are adjusted to restore competition in future tenders or, if not possible, as soon as appropriate.

(d) Ex-post adjustments to the results of the bidding process must be avoided, as they could undermine the effectiveness of the process.

(215) ESA notes that the Auction will be based on price-based bidding, where the developer demonstrating the ability to complete a project with a capacity of approximately 500 MW for the least amount of aid will win. The Auction is open to

[114] Referred to in the CEEAG as "funding gap".

all parties that have been granted exclusive rights to explore the project areas and who have applied for a production licence (see paragraph (100)). ESA further notes that if only one developer is eligible to participate in the Auction, the Auction will be cancelled. Moreover, the budget of the measure ensures that only one project will be awarded the aid. The Norwegian authorities also confirm that the terms and conditions of the Auction will be provided to developers prior to the Auction.

(216) ESA therefore finds that the aid under the scheme will be granted through a competitive bidding process, in line with point 49 CEEAG.

(217) Consequently, ESA notes that, in line with point 49(a) CEEAG, the criteria for the participation in the bidding process are defined ex ante, in a clear, transparent, and non-discriminatory way, in accordance with the objective of the scheme, see Section 5.3.1.

(218) As already assessed in Section 9.3.3, ESA considers that the technological eligibility criterion is justified, as an open procedure for all technologies would not achieve the measure's objectives.

(219) ESA notes that, in line with point 49(b) CEEAG, the Norwegian authorities confirm that the criteria for the bidding process will be published approximately three months before the application deadline. The candidates will be selected transparently and without discrimination based on their technical and financial capabilities, as explained in paragraph (102).

(220) ESA considers that the Auction is open to the three developers selected in Step 1 and will only take place if at least two of the developers have taken the necessary steps to qualify for the participation in the Auction (see paragraph (92)). Furthermore, ESA notes that the budget constraint ensures that only one project will receive aid under the scheme. Moreover, the requirement to correct undersubscribed bidding processes is not applicable given that only one auction will take place and that the auction will be cancelled if it is insufficiently subscribed. ESA therefore concludes that the scheme fulfils the condition set in point 49(c) CEEAG.

(221) The Norwegian authorities confirm that, in accordance with point 49(d) CEEAG, the aid will be granted solely based on the offer submitted by the bidder, and that there will be no ex-post adjustments of the bid.

(222) Moreover, point 50 CEEAG explains that the selection criteria used for ranking bids should put the contribution to the main objectives of the measure in relation with the aid amount requested by the developer.

(223) As noted in paragraph (215), the ranking criterion will be the aid amount in NOK per MW. ESA considers this to reflect the objectives of the scheme, as the project with the lowest bid in aid/MW will win the Auction. Therefore, the requirements in point 50 CEEAG are fulfilled.

(224) Further, as all holders of the exclusive rights to project areas have the right to apply for a production licence and participate in the Auction (see Section 5.3.2), ESA considers the measure to be in line with point 104 CEEAG. As regards the limitation

of the measure to a certain technology and area, ESA assessed it in paragraphs (199) to (202) and found these limitations to be justified under point 96 CEEAG.

(225) Point 112 CEEAG also states that when concessions or other benefits are granted as part of the aid measure, States must ensure that they are awarded based on objective and transparent criteria linked to the objectives of the measure.

(226) As further detailed in Section 3.5.1, the allocation of the project areas is regulated in the Offshore Energy Act, and is based on pre-established criteria that assess the developers' qualifications, see paragraph (102). These criteria are predetermined and made available to all developers free of charge. Furthermore, the announcement documents will provide guidance on how the criteria will be assessed and how to fulfil the criteria through documentation, see paragraph (104). ESA therefore considers that the criteria are objective and transparent and linked to the measure's objective, in compliance with point 112 of the CEEAG.

(227) ESA also takes note of the clawback mechanism which the Norwegian authorities will include in the Aid Agreement to avoid overcompensation, and which would further ensure the proportionality of the measure (see Section 5.7.2).

(228) In accordance with the above, ESA considers that the requirements in points 47, 49, 50, 103, 104, and 112 CEEAG are fulfilled.

9.3.6 Transparency and cumulation

(229) ESA notes that the Norwegian authorities commit to comply with the transparency requirements laid down in points 58 to 61 CEEAG, see paragraph (127).

(230) ESA notes that the Norwegian authorities have committed to comply with point 56 CEEAG, see paragraphs (128) to (129). ESA therefore concludes that the measure complies with points 56 and 58 to 61 CEEAG.

9.3.7 Negative condition: the aid does not unduly affect trading conditions to an extent contrary to the common interest

(231) It follows from point 114 CEEAG that except for point 70, Sections 3.2.2 and 3.3 CEEAG do not apply to measures aimed at reducing greenhouse gas emissions.

(232) Point 70 CEEAG states that a State aid measure that constitutes a scheme will be authorised for a maximum period of 10 years. In this case, ESA notes that the aid is granted following a single call for tender procedure, and the sole beneficiary of this call for tenders will be designated in 2028-2029 (see paragraph (119)). ESA considers that the measure therefore complies with point 70 CEEAG.

(233) Point 115 CEEAG explains that the subsidy per tonne of CO_2 equivalent emissions avoided must be estimated for each reference project in the case of schemes, and the assumptions and methodology for that calculation must be provided. In the present case, the subsidy per tonne of CO_2 equivalent is estimated for each reference project (see Section 4.3.4.1). The Norwegian authorities have calculated the estimated subsidy per tonne of CO_2 equivalent emissions avoided using the IF methodology. ESA finds these calculations to fulfil the requirements in point 115 CEEAG.

(234) Point 116 CEEAG explains that the aid must not merely shift emissions from one sector to another but must result in an overall reduction of greenhouse gas emissions. Points 127 to 129 CEEAG require States to explain how they plan to avoid the risk of aid that, in the long term, encourages or prolongs the consumption of fossil fuels and energy.

(235) ESA notes that the supported floating offshore wind farm will use renewable wind energy to produce electricity and will contribute to the electrification of sectors currently using fossil fuels, which advances the decarbonisation of the Norwegian economy. Therefore, the measure also complies with point 126 CEEAG, as it does not incentivise generation of energy that would displace less polluting forms of energy.

(236) ESA notes that the measure aims solely to support renewable energy production from floating offshore wind without displacing investments in existing, cleaner alternatives already available on the market. The limitation to floating offshore wind was duly justified in Section 4.2.1. Furthermore, ESA observes that other measures are in place to support the development of other renewable energy production technologies.

(237) Moreover, point 120 CEEAG states that the EEA State concerned must demonstrate that reasonable measures will be taken to ensure that the project receiving aid will be developed.

(238) ESA notes that the Norwegian authorities have a qualitative competition for the award of exclusive rights to explore the project areas (Step 1), where the developers will be assessed based on qualitative criteria, see paragraph (102). Moreover, the beneficiaries that are awarded exclusivity to an area will have to comply with strict regulatory deadlines and will only be granted a time-limited right to conduct a project-specific impact assessment and to apply for a licence to construct, own and operate a renewable energy production facility, see Section 3.5.1.

(239) Furthermore, ESA notes that the winner of the Auction will enter into the Aid Agreement with the Ministry, see paragraph (113). The contractual framework will require the beneficiary to develop the project in line with a specified project plan. Failure to meet the requirements can result in daily penalties and a reduction of the State aid amount. ESA therefore considers the conditions in point 120 CEEAG to be fulfilled.

(240) Point 121 CEEAG states that when an aid measure covers the operating costs of a project rather than its investment costs, the State must demonstrate that it will lead to more environmentally friendly operational decisions. Under the measure, the aid is provided in the form of a direct grant and does not cover costs linked to the operation of the wind farm nor variable short-term costs. Instead, the aid will cover the initial fixed investment costs, see paragraphs (113) and (114).

(241) Point 122 CEEAG states that where aid is primarily required to cover short-term costs that may be variable, States should confirm that the production costs on which the aid amount is based will be monitored and the aid amount updated at least once per year. ESA notes that the notified measures do not cover costs mostly linked to

operation or variable short-term costs, but intend to cover the initial fixed investment costs, see paragraph (114).

(242) Moreover, point 123 CEEAG explains that the aid must be designed to prevent any undue distortion to the efficient functioning of markets and preserve efficient operating incentives and price signals.

(243) The beneficiary under the measure will bear part of the investment risk, while being fully exposed to all operational costs and the risks associated with the operation and production of the project, see paragraph (114). The beneficiaries will therefore be fully exposed to price variations and market risks during the operational lifetime of the project. ESA therefore notes that the requirements of points 122 and 123 CEEAG are fulfilled.

(244) Points 124 and 125 CEEAG state that a case-by-case assessment will be carried out for measures that include dedicated infrastructure projects, taking into account steps to mitigate the distortive effect of aid to such infrastructure. As set out in Section 4.2.2, the wind farm will be connected to the onshore grid through a radial grid connection built by the developer and tailored to its need. CEEAG footnote 27 defines projects which are built for one or a small group of *ex ante* identified users and tailored to their needs as "dedicated infrastructure". ESA agrees to the assessment of the Norwegian authorities that the grid connection in question qualifies as dedicated infrastructure.

(245) The Norwegian authorities explain that the developer's connection will need to adhere to the generally applicable market access rules[115] for all electricity production. The developer is required to build the necessary grid infrastructure up to the relevant connection point assigned by the TSO.

(246) The developer's connection will therefore not be subject to any derogations or exemptions from the market access rules. ESA notes that Norway has committed to apply third-party access rules to the developer's connection in accordance with EEA rules.[116]

(247) Furthermore, ESA finds that the scope of the developer's connection for Utsira Nord is limited in both capacity and size, particularly due to the close distance from shore, and will therefore in any case have limited market impact. As regards the potential risk of distortion of competition, ESA also refers to its assessment in paragraphs (251) to (254).

(248) Based on the above, ESA finds that the developer's connection included in the measure will not entail any undue distortions of competition. Therefore, the measure complies with points 124 and 125 CEEAG.

(249) Point 131 CEEAG explains that, where risks of additional distortions to competition are identified or measures are particularly novel or complex, ESA may impose conditions, including the obligation to perform an ex-post evaluation, as set out in

[115] The Norwegian authorities have explained that these are rules related to: (i) market access/third-party access; (ii) grid contribution for necessary grid investments; (iii) requirement for a trading licence; and (iv) measurement and settlement of electricity production delivered to the grid.
[116] As further described in Section 3.5.2.

point 76 CEEAG. As indicated in Section 5.9, the measure will be subject to ex-post evaluation.

(250) Point 132 CEEAG specifies that for an aid measure benefiting a limited number of recipients, the State must demonstrate that the measure will not distort competition, for example, by increasing the market power (directly or indirectly) of the beneficiary.

(251) At this stage, it is not known which undertakings will participate in the Auction. ESA notes that the measure will be awarded through a competitive bidding process, which is open to international participants. Moreover, the measure is limited to the development of a single project of 500 MW out of a total designated capacity of 1 500 MW in Utsira Nord.

(252) ESA further notes that the reference project has an estimated net annual production of 2.1 TWh/year, see paragraph (69). In 2024, the pricing area of NO2 had a production of 55.6 TWh.[117] Considering that the floating offshore wind farm will be connected to the NO2 pricing area, the projected net annual production of the floating offshore wind farm will be approximately 3.8% of the total production in NO2. A production of this scale is not expected to have a meaningful impact on the market power of the developer that wins the Auction nor on the market structure more broadly. ESA also notes that NO2 is interconnected with Germany, Netherlands, Denmark and UK.

(253) Furthermore, as explained by the Norwegian authorities, 20 areas have been identified as suitable for offshore energy production, see paragraph (21). The measure therefore supports only a small portion of the total expected offshore energy production in Norway. In this regard, ESA also takes note of the Norwegian government's ambition to allocate areas for 30 GW of offshore wind by 2040, see paragraph (20).

(254) Based on the above, ESA finds that the potential risk of distorting competition and trade is kept to a minimum. ESA therefore concludes that the aid granted under this measure avoids undue negative effects on competition and trade and that the measure complies with point 132 CEEAG.

9.3.8 Balancing positive and negative effects of the aid

(255) As stated in paragraphs (40) to (41), the measure supports the development of specific economic activities, namely renewable energy production, which will contribute to the decarbonisation of the EEA energy sector. The scheme will therefore contribute to important policy objectives at the EEA and national level.

(256) Point 134 CEEAG explains that insofar as there are no clear indications of non-compliance with the "do no significant harm" principle and all other compatibility conditions are met, the positive effects of a decarbonisation measure will be considered to outweigh the competitive distortions caused by it.

[117] Which is approximately 36% of the total Norwegian electricity production in 2024 and the highest production of energy compared to other pricing areas in Norway, see https://www.statnett.no/globalassets/for-aktorer-i-kraftsystemet/planer-og-analyser/kraftmarkedsaret/kraftmarkedsaret-2024.pdf, p. 6.

(257) In this case, there are no indications of non-compliance with the “do no significant harm” principle, and as detailed above, all other compatibility conditions are fulfilled. Therefore, ESA considers that the overall impact of the measure is positive, meaning its benefits outweigh any distortions in the internal market.

9.3.9 Companies in difficulty and under recovery orders

(258) As explained in Section 5.10, ESA notes that the Norwegian authorities have confirmed that no company which, at the time of the offer submission, is in financial difficulty within the meaning of the Guidelines on State aid for rescuing and restructuring firms in difficulty, will receive aid under the notified measure.

(259) ESA also notes that Norway has committed, based on developers' declarations, to ensuring that no company which, at the time of the offer submission, is subject to a recovery order following a previous ESA or European Commission decision declaring aid illegal and incompatible with the internal market, will receive aid under the notified measure.

(260) In light of the above, ESA finds that the aid measure complies with points 14 and 15 CEEAG**.**

9.4 Reporting and monitoring

(261) Pursuant to point 464 CEEAG and in line with Protocol 3 SCA, the EEA States must submit annual reports to ESA on existing aid schemes.

(262) ESA notes that the Norwegian authorities have confirmed that they will maintain detailed records of information pertaining to the measure. Such records must contain all information necessary to establish that the conditions regarding eligible costs and maximum aid intensities have been fulfilled. According to point 465 CEEAG, those records must be maintained for 10 years from the date of award of the aid and must be provided to ESA upon request. The Norwegian authorities confirm that they will comply with this requirement.

10 Conclusion

(263) On the basis of the foregoing assessment, ESA considers that the measure constitutes State aid with the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that the aid is compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(c) of the EEA Agreement, it has no objections to the implementation of the measure.

For the EFTA Surveillance Authority, acting under Delegation Decision No 068/17/COL,

Yours faithfully,

Arne Røksund
President
Responsible College Member

For Melpo-Menie Joséphidès
Countersigning as Director,
Legal and Executive Affairs

This document has been electronically authenticated by Arne Roeksund, Sigrun Ingibjorg Gisladottir.