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June 2025

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Industry Update

What's Next for French Offshore Wind Power? Blowin' in the Wind

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Is stormy weather on the horizon for the offshore wind energy industry? The combination of rising supply costs, increased interest rates and significant execution risk has hurt the profitability of projects and led some energy companies to withdraw from investments.

However, offshore wind power remains a major lever of the ecological transition, which involves the shift to power electrification and renewables.

In this context, clear public policy priorities and regulatory and financial incentives are key enablers of the development and consolidation of the offshore wind energy industry. With the United States currently facing changes in the future of its green energy policies, Europe and, more particularly, France are thus looking for the best ways to support the industry.

With 1 GW of new capacity commissioned, 1.25 GW of capacity awarded or registered and 5 GW of new calls for tender initiated (AO7, AO8 and AO9 respectively), France intends to be a European leader in offshore wind power. In October 2024, the French Ministry for the Energy Transition announced the launch of new tender (AO10), covering a total capacity between 8.4 and 9.2 gigawatts (GW) allocated across both fixed-bottom and floating wind farms. This significant capacity aligns with the projections outlined in the forthcoming revision of the Multiannual Energy Plan (*Programmation Plurianuelle de l'Energie* or PPE), which sets ambitious targets of 18 GW of installed offshore wind capacity by 2035 and 45 GW by 2050 (but still has to be confirmed).

AO10 marks a pivotal moment for the offshore wind sector in France, reflecting a significant shift toward large-scale industrialization and broader efforts to accelerate project deployment. It builds upon lessons learned from previous tendering procedures, which have helped improve both public authorities and market participants in their understanding of the process. To comply with ambitious goals and meet tight timelines, with award decisions expected as early as 2026, the French government plans to rely on a proper regulatory and contractual framework, with further changes still being considered.

This client alert aims to point out the main developments of the French legal framework for offshore wind power, addressing three main objectives: (1) acceleration of project development, (2) optimization of risk allocation and (3) industrialization.

1. STREAMLINING THE LEGAL FRAMEWORK TO ACCELERATE PROJECT DEVELOPMENT

Regulatory changes have been introduced to accelerate project timelines across all key stages: (i) upstream (planning, public consultation, impact assessments, grid connection), (ii) during the tendering process and (iii) following the tendering process (permitting, contracting).

(i) Accelerating Upstream Procedures

Planning: Following APER Law (Law No. 2023-175 of March 10, 2023), France adopted a mapping of priority areas for offshore wind energy. This mapping has led to the initiation of AO10 and enabled the prompt commencement of the required technical and environmental de-risking studies.

Public debates: It is now permitted to organize a single public debate addressing multiple offshore wind projects located along the same maritime coastline, including those scheduled over multiple years (see Article L.121-1-8 of the French Environmental Code). This approach allows for a consolidated public consultation process and strengthens the consistency between national energy objectives and spatial planning. Furthermore, the tendering procedures may be launched before the end of the public debate.

Grid connection: RTE has been designated as the sole entity responsible for the offshore grid connection of wind farms. To be able to complete the necessary grid connections within the required timeframes, RTE has committed to a process of standardization, massification and simplification of the projects. Another expected change is to anticipate grid connection (including technical studies and certain works) prior to the designation of a successful bidder, which would prevent the connection from being on the critical path of the projects and compress the post-award implementation timelines.

(ii) Accelerating Tendering Procedures

Pooling of tendering procedures: AO10 is representative of a new approach relying on pooling tendering procedures for several projects across multiple maritime coastlines and including both fixed-bottom and floating technologies, based on the same general terms and conditions (*cahier des charges*). This approach aims to accelerate the development of the projects and provide visibility to the industry. Specific rules will be introduced to preserve competition.

Reduction of the duration of tendering procedures: While the Energy Regulatory Commission (CRE) proposed to favor simpler tendering procedures, AO10 will be implemented through a competitive dialogue, as previous calls for tender. A decree is expected to simplify the prequalification process and reduce the duration of this procedure to approximately 12 months, as opposed to two-and-a-half to three years currently.

(iii) Accelerating Permitting and Contracting Procedures

Envelope permit: The ESSOC Law (Law No. 2018-727 of August 10, 2018) enabled developers, within defined limits, to request environmental permits with flexible technical components (such as the number of turbines, unit capacity, foundation type or cable routing). It also allowed project developers and RTE to adapt their infrastructure based on available technological developments at the time of construction. To benefit from such regime, the environmental assessment must be based on the maximum potential impacts of the variants being considered (see Article L.181-28-1 of the French Environmental Code).

Economic and Administrative Simplification Bill: Article 16 of the Economic and Administrative Simplification Bill, which is currently under discussion, allows public buyers to waive the obligation to subdivide contracts for any renewable offshore energy generation project exceeding a threshold yet to be defined. Also, some amendments to this bill provide for the introduction of a maximum period of 12 months for the granting of permits to offshore wind projects.

2. OPTIMIZING RISK ALLOCATION TO ENSURE THE ECONOMIC AND FINANCIAL BALANCE OF THE PROJECTS

To ensure the economic and financial balance of offshore wind projects, the legal and contractual framework has evolved towards (i) greater State involvement in the early stages of projects, (ii) market-based State financial support and (iii) litigation risk mitigation.

(i) State Involvement During the Preparatory Phase

Since the entry into force of the ESSOC Law, the State has acted as project owner for the technical and environmental studies conducted prior to the competitive bidding process (see Article L. 311-10-3 of the French Energy Code). This system is designed to enhance the legal certainty of bids and to accelerate the permitting process. The acquisition of permits by the State has been discussed but raised some concerns about the capacity of the administration to take charge of this responsibility.

(ii) State Financial Support Through CfDs

French offshore wind power is supported through a market-based premium scheme, under which the producer is entitled to enter into a contract for difference (CfD) with EDF and to receive an energy premium, which equals the difference between a reference tariff, resulting from the competitive bidding process, and market prices, this mechanism being bidirectional. This scheme has shown efficacy. However, in the current economic context, some questions have arisen, notably regarding the indexing of electricity purchase prices to inflation. Moreover, in the future, the intention is to authorize producers to sell part of their production outside of the scope of the CfD, for instance through PPAs (probably up to 20% as a first step).

(iii) Litigation Risk Mitigation

The ASAP Law (Law No. 2020-1525 of December 7, 2020, on the Acceleration and Simplification of Public Action) grants the *Conseil d'Etat* (French administrative Supreme Court) exclusive jurisdiction in first and final instance over all administrative decisions related to offshore wind projects. This includes decisions concerning offshore renewable energy generation facilities and their associated infrastructure (notably port facilities), as well as grid connection operations (see Article L.311-13 of the French Code of Administrative Justice). This exclusive jurisdiction aims to reduce the procedural timeframes inherent to administrative litigation, ensure consistency in case-law and enhance legal predictability for project developers.

3. PROMOTING LOCAL CONTENT TO BOOST INDUSTRIALIZATION

To promote the ecological transition as well as industrial sovereignty in Europe, French public authorities have (i) engaged in strategic discussions with the offshore wind power industry, (ii) put in place a specific tax credit and (iii) promoted nonprice criteria in tendering procedures.

(i) Offshore Wind Pact

Offshore wind development represents a major lever for France's reindustrialization, provided that the economic benefits of projects are effectively captured within the national territory. This objective is embodied in a contractual approach between the State and the offshore wind sector through the Offshore Wind Pact signed in March 2022. This pact sets several targets for the State and project developers, notably (i) securing 50% of the industrial process in France, (ii) investing €40 billion in the next 15 years and (iii) creating 20,000 jobs in France by 2035.

(ii) Tax Credit

The 2024 Finance Act introduced a tax credit, known as the Green Industry Investment Tax Credit (CI3V), which ranges from 20% to 45% of an industrial player's investment in green technologies in France. This tax credit is available to industrial activities within the offshore wind sector, covering the production of major components such as blades, nacelles, towers and floating platforms, as well as key materials.

(iii) Application of Nonprice Criteria

Under the European Net-Zero Industry Act (NZIA) (see Regulation (EU) 2024/1735 of the European Parliament and Council of June 13, 2024), national authorities are now required to incorporate nonprice criteria into renewable energy tenders, notably in respect of resilience and sustainability (e.g., carbon footprint, circular economy practices, biodiversity impacts, energy efficiency, innovation). These criteria will be used at the prequalification stage (particularly with respect to areas such as CSR, cybersecurity and financial security) as well as during the award phase. They will be implemented for the first time in AO9 and will be strengthened in AO10. In January 2025, the European Commission released a draft delegated act for public consultation, which further clarifies the definitions and evaluation methods for these criteria.

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