



EUROPEAN COMMISSION

Brussels, 23.7.2014

C(2014) 5074 final

<p>In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...].</p>		<p>PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
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Subject: State aid SA.38758 (2014/N), SA.38759 (2014/N), SA.38761 (2014/N), SA.38763 (2014/N) & SA.38812 (2014/N) – United Kingdom Support for five Offshore Wind Farms: Walney, Dudgeon, Hornsea, Burbo Bank and Beatrice

Sir,

The European Commission wishes to inform the United Kingdom that, having examined the information supplied by your authorities on the matter referred to above, it has decided to raise no objections to the notified aid measures.

I. PROCEDURE

The Rt Hon William HAGUE
Secretary of State for Foreign Affairs
Foreign and Commonwealth Office
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London SW1A 2AH
UNITED KINGDOM

1. Following pre-notification contacts, on 20 June 2014 the United Kingdom notified, pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (TFEU), the support for the five offshore wind projects mentioned above, namely for the Walney Extension Offshore Wind Farm (SA.38758), Dudgeon Offshore Wind Farm (SA.38759), Hornsea Offshore Wind Farm (SA.38761), Burbo Bank Extension Offshore Wind Farm (SA.38763) and Beatrice Offshore Wind Farm (SA.38812).
2. The five projects are very similar, differing only in certain technical aspects and engineering design. The proposed projects are therefore assessed together in one single decision.

II. DESCRIPTION OF THE MEASURE

Background and objectives of the notified projects

3. The UK has in place two different support systems for renewables, one based on certificates (the Renewable Obligation scheme¹) and one based on feed-in tariffs (the FIT scheme²). It intends to restructure its support for renewable energy and to replace these two existing systems by one system based on Contract for Difference (CfD), which is known as the CfD for Renewables Scheme. The Commission is assessing the notification of the CfD for Renewables Scheme in parallel, in the case SA.36196.
4. In attendance of finalisation of the new scheme based on CfD, the UK has, as a transitory measure, organised a tender process and selected eight advanced renewable projects including the five projects subject to the present notifications³. These selected projects will receive Investment Contracts, awarded under the transitional Final Investment Decision (FID) Enabling for Renewables process.
5. The UK explained that the aim of the transitional FID Enabling for Renewables process is to enable developers of renewable electricity projects to take final investment decisions, or other critical investment decisions directly impacting the time to commission the different projects, which would otherwise be delayed by the uncertainty caused by the transition to the enduring CfD for Renewables Scheme. The UK considers that without this transitional measure, large renewable projects would be delayed or even cancelled, and this would significantly increase the risk of the UK missing its interim and 2020 renewables targets, and is likely to have an adverse impact on security of supply.

¹ The scheme was originally approved by the Commission Decision of 28 February 2001 in case N504/2000 and subsequently amended several times. In its current form, the scheme was approved by the Commission in its Decision of 2 April 2013 in case SA.35565 (2013/N). Some specific elements were afterwards approved for Northern Ireland (case SA.36084) and Scotland (case SA.37453).

² The scheme was originally approved by the Commission Decision of 14 April 2010 in case N 94/2010, later amended by the Decision of 30 September 2011 in case SA.33210 and of Decision of 15 March 2013 in case SA.35576.

³ The other three projects concern biomass and are currently in pre-notification phase (cases SA.38760, SA.38762 and SA.38796).

6. The selection process was designed as an open, transparent, competitive and non-discriminatory process. To qualify, a project had to be targeting the generation of renewable electricity by 31 March 2019, ensuring that the project would contribute to meeting the 2020 renewables target. The budget for this process was constrained and not all projects that met the minimum threshold Evaluation Criteria were able to receive Investment Contracts.
7. From the 57 projects that applied to the process, 26 passed to the second phase of the selection process, based on the qualification criteria established by the UK⁴.
8. In the second phase on the selection process, 16 applicants from the four technology groups were selected, as they met the required minimum evaluation criteria⁵ thresholds. The projects meeting the minimum threshold evaluation criteria were ranked for each technology, and they were further subject to an affordability assessment and down-selection methodology, allowing the UK to select only the projects for which there was a budget available.
9. The UK wished to ensure the selection process will provide support to a variety of technologies, which is why it tried to first allocate Investment Contracts to the top quartile of projects which met the minimum threshold Evaluation Criteria within each of the technology types for which there was at least one project remaining in the process.
10. At the end of the selection process, eight projects have been awarded Investment Contracts. These are presented in the table below.

Table 1 – Projects awarded Investment Contracts

⁴ The qualification criteria limited the eligible projects to projects eligible for support under the Renewable Obligation scheme, which were however not already accredited under the Renewables Obligation. Furthermore they needed to have credible plans in place to start generating electricity by 2019, that would not occur or would be significantly delayed without an Investment Contract. They had to be located in the UK (although the process was open to developers from other Member States) and needed to have a capacity of 50MW or greater (or in the case of an offshore project, 100MW or greater).

⁵ The evaluation criteria used were related to the project deliverability and its impact on industry development (focussing on whether the project was likely to support industries associated with the generation of electricity from renewable sources, contributing to the development of the supply chain and the reduction of the cost of renewable generation over the long term).

Project	Technology	Installed Capacity Estimate (MW)	Location
Drax 3rd Conversion Unit (Unit #1)	Biomass conversion	645	Selby, North Yorkshire
Lynemouth Power Station	Biomass conversion	420	Ashington, Northumberland
Teesside Renewable Energy Project	Dedicated biomass with combined heat and power ("CHP")	299	Tees Valley, Middlesbrough
Beatrice Offshore Wind Farm	Offshore wind	664	Outer Moray Firth, Scotland
Burbo Bank Extension Offshore Wind Farm	Offshore wind	258	Liverpool Bay, at the entrance to the River Mersey
Dudgeon Offshore Wind Farm	Offshore wind	402	The Wash, north of Cromer, Norfolk
Hornsea Offshore Wind Farm Project One	Offshore wind	1200	North Sea, off the Yorkshire coast
Walney Extension Offshore Wind Farm	Offshore wind	660	Irish Sea, off the coast of Cumbria

Source: the UK authorities

11. According to the UK, the eight selected projects will contribute over 4.5GW of low carbon electricity capacity to the UK's energy mix. Once built the projects will contribute around 15TWh of generation, or 14%, of the renewable electricity the UK expects to come forward by 2020, helping the UK to meet its 2020 renewable energy target. The projects will also reduce emissions by 10Mt CO₂ per year compared to fossil fuel power generation, and will contribute to meeting the UK's security of supply and diversity of supply objectives by ensuring that a range of technologies contribute to the UK energy mix.

Beneficiaries

12. The beneficiaries of the scheme are the 5 offshore wind farms selected:

- Walney Extension Offshore Wind Farm;
- Dudgeon Offshore Wind Farm;
- Hornsea Offshore Wind Farm;
- Burbo Bank Extension Offshore Wind Farm; and
- Beatrice Offshore Wind Farm.

Table 2 – Beneficiaries of the aid

Name of Project	Name of Generator	Shareholders	Target Commissioning Date*	Applicable Strike Price (operating aid in 2012 Prices)
Beatrice Offshore Wind Farm	Beatrice Offshore Wind Farm Limited	*SSE Beatrice Offshore Wind Holdings Limited (75%) * Repsol Beatrice Limited (25%)	31/03/2018	£140/MWh

Burbo Bank Extension Offshore Wind Farm	DONG Energy Burbo Extension (UK) Limited	* DONG Energy A/S	31/03/2017	£150/MWh
Dudgeon Offshore Wind Farm	Dudgeon Offshore Wind Limited	* Statoil Wind Limited (70%) * Statkraft UK Ltd (30%)	01/03/2017	£150/MWh
Hornsea Offshore Wind Farm Project One	Heron Wind Limited and Njord Limited	* DONG Energy Wind Power A/S (33.3%) * Siemens Project Ventures GMBH (33.3%) * International Mainstream Renewable Power (Offshore) Limited (33.3%)	31/03/2019	£140/MWh
Walney Extension Offshore Wind Farm	DONG Energy Walney Extension (UK) Limited	* DONG Energy A/S	31/03/2017	£150/MWh

Source: the UK authorities

13. The five notified offshore wind projects have an electricity generation capacity ranging from 258 MW to 1200 MW (totalling around 3.14 GW). They are expected to be commissioned between 1 March 2017 and 31 March 2019. The estimated lifetime of the plant is 24 years and the proposed duration of the investment contract is 15 years.
14. Overall, the market share⁶ of the five projects would amount to 3.3% of the UK electricity generation capacity. On an individual project basis, the market shares in relation to the total generation capacity are: Beatrice Offshore Wind Farm 0.7%; Burbo Bank Offshore Wind Farm, 0.2%; Dudgeon Offshore Wind Farm, 0.4%; Hornsea Offshore Wind Farm, 1.3%; Walney Offshore Wind Farm, 0.7%.

Walney Offshore Extension

15. The Walney Offshore Extension project concerns an offshore wind project to be located off the coast of Cumbria in the East Irish Sea, where it would cover a development area of 149km². The wind farm would be built and operated by DONG Energy Walney Extension (UK) Limited, a company incorporated in the UK and owned by DONG Energy A/S (Denmark). The former would be the beneficiary of the aid.
16. The project will be developed in two phases. It is intended that 55 turbines (6MW each) will be erected in each phase, to obtain a total installed capacity of 330 MW per phase. The total nominal capacity of the Project would thus be 660MW. The target commissioning date is 31 March 2017.

⁶ Calculated as the proportion of electricity generated by them in the UK as a percentage of the total amount of electricity generated in the UK; project % market share of UK Generation was calculated as the average annual share of UK generation of the project's generation lifetime.

17. The total amount of support for this project is estimated at £2.1 billion. The applicable strike price is £150/MWh.

Beatrice Offshore Wind Farm

18. The Beatrice Offshore Windfarm concerns an offshore wind project located in the Scottish Territorial Waters of the Outer Moray Firth to be operated by Beatrice Offshore Windfarm Limited, a company incorporated in the UK and owned by SSE Beatrice Offshore Windfarm Holdings Ltd (SSE) and Repsol Beatrice Ltd (owned by the Spanish company Repsol SA).

19. The project will be completed in two phases with an estimated total installed capacity of 664MW. The target commissioning date is 31 January 2018 for phase 1 and 31 January 2019 for phase 2.

20. The total amount of support for this project is estimated at £1.9 billion. The applicable strike price is £140/MWh.

Dudgeon Offshore Wind Farm

21. The Dudgeon Offshore Wind farm (Dudgeon) is located about 32 km outside Cromer. The project was acquired by current owners Statoil and Statkraft in October 2012. The Dudgeon project is well advanced in the procurement process, with several construction contracts awarded (these are contracts for turbine supply, submarine export cable, and foundation and substation installation. The remainder of the construction contracts will be let by the end of 2014.

22. The project will be completed in three phases with target commissioning dates on 1 March 2017 for phase 1, 1 August 2017 for phase 2, and 1 October 2017 for phase 3. The estimated installed capacity is 402 MW.

23. The total amount of support for this project is estimated at £1.5 billion. The applicable strike price is £150/MWh.

Hornsea Offshore Wind Farm

24. The western boundary of the Project lies 103 km off the East Riding of Yorkshire coast and the eastern boundary is 43.6 km from the median line between UK and Dutch waters. Ownership of the project is shared between: International Mainstream Renewable Power Limited (33.33%, England); DONG Energy Wind Power A/S (33,3%, Denmark) and Siemens Project Ventures GMBH (33.33%, Germany). However, current ownership is not reflective of anticipated ownership at the closure of the contract, before which DONG Energy Wind Power A/S will have taken 100% ownership.

25. Construction is scheduled to start in the first quarter of 2016. Construction is scheduled in 3 phases with target commissioning dates between 2019 and 2021. of 31 March 2019, 31 March 2020 and 31 March 2021. The estimated installed capacity is 1 200 MW.

26. The total amount of support for this project is estimated at £3.4 billion. The applicable strike price is £140/MWh.

Burbo Bank Offshore Wind Farm

27. The Burbo Bank Extension Offshore Wind Farm concerns an offshore wind project located in Liverpool Bay, off the Merseyside coast to be operated by DONG Energy Burbo Extension (UK) Limited, a company incorporated in the UK and owned by DONG Energy A/S (Denmark).

28. The target commissioning date is 31 March 2017 and the estimated installed capacity is 258 MW.

29. The total amount of support for this project is estimated at £ 800 million. The applicable strike price is £150/MWh.

Form of aid and level of support

30. The notified aid is granted based on CfD and takes the form of a variable premium calculated as the difference payment between a pre-fixed price (the strike price) and a measure of the market price for electricity (the reference price). Generators will earn money from selling their electricity into the market as usual, but when the average wholesale price of electricity is below the strike price, generators will receive a top-up payment from suppliers, through a UK Government-owned counterparty (Low Carbon Contracts Company Ltd - the "CfD Counterparty"⁷), for the difference. The generators will however retain the risks of not achieving the reference price and a volume risk of not achieving the forecasted sales volumes.

31. When the reference price exceeds the strike price, the CfD mechanism requires the generator to pay the difference between the reference price and the strike price to the CfD Counterparty. In the view of the UK this ensures that the generators are not being overcompensated.

32. The reference price is a price which is based on forward wholesale market electricity prices in a given period. This ensures that the generator participates in the electricity market in the normal way by seeking to obtain the best price for the electricity generated by it.

⁷ Initially the Investment Contracts are being entered into by the UK Government. Once the CfD Counterparty has been formally designated, the UK Government will transfer the Investment Contracts to it.

- 33. The support to the selected five offshore wind projects is therefore determined on the basis of an administratively set strike price. Strike prices were set at such levels that the support under the FID Enabling for Renewables proces is broadly equivalent to that provided under the current Renewable Obligation scheme, in order to enable a smooth transition between the support schemes.
- 34. For the calculation of strike prices for offshore wind, the UK in particular considered the ranges of levelised costs presented in table 3 below. The UK presented in detail how these costs were calculated, the sources of data used, and the hurdle rates considered⁸.
- 35. The ‘levelised cost’ is the average cost over the lifetime of the plant per MWh of electricity generated (a standardised measure of the net present value of lifetime costs divided by generation for a generic plant under each technology). It reflect the cost of building a generic plant for each technology, while potential revenue streams are not considered. Levelised costs estimates are highly sensitive to the underlying data and assumptions used including those on capital costs, fuel and carbon costs, operating costs, operating profile, load factor and discount rates. Some of these uncertainties are captured through the use of ranges presented around key estimates (e.g. for capex and fuel depending on the estimates).
- 36. The levelised cost does not explicitly include the financing costs attached to new generating stations. In most cases the UK authorities used a 10% discount rate across all technologies.

Table 3 - Levelised cost estimates for projects commissioning in 2014, 2016, 2020, £/MWh (2012 prices)

Technology	2014	2016	2020
Offshore wind	131-189	117-172	105-152

Source: the UK authorities

- 37. The hurdle rates considered were for most technologies lower than the hurdle rates considered under the renewable Obligation scheme. In the case of offshore wind, the pre-tax hurdle rate considered for the calculation of the strike price was 9.7% - 10.1 % (as compared to 10.2 – 10.4% for the Renewable Obligation scheme).

⁸ All these elements have been published by the UK authorities in the document "Electricity Generation Costs", available on <https://www.gov.uk/government/publications/electricity-generation-costs>. The main sources of data used by the UK for the purpose of calculating levelised costs include reports from DECC (2013) and the System Operator (2013), IEA projections, Arup (2011), Ernst & Young (2010). The pre-tax real hurdle rates are calculated from the post-tax nominal hurdle rates underlying the Renewables Obligation Banding Review Government Response (2012). These post-tax nominal rates are based on evidence from Arup (2011), Oxera (2011) and Redpoint (2010) consultation responses and also in the NERA report (2013). In order to convert the post-tax nominal rates into pre-tax real rates, the UK used updated effective tax rate assumptions from work undertaken by KPMG (2013) and a 2% inflation assumption consistent with the UK Government’s inflation target. The estimated hurdle rate reductions due to the introduction of CfDs are based on evidence reviewed by NERA (2013).

38. The UK explained that the strike prices for offshore wind (as well as most strike prices for other technologies eligible for CfD) are set on a market-wide basis. The UK has chosen to pursue a single market wide price for each technology as there are sufficient projects to enable this to be effective. The only exception to this is for tidal stream and wave technologies.
39. The calculation of the strike price is based on a range of factors, covering technology specific factors (such as capital and operating costs, financing costs as well as any build constraints), market conditions (such as wholesale prices and the discount which generators face when signing a power purchase agreement), policy considerations (such as the specific contract design, choices about technology mix and meeting the ambition for renewable electricity).
40. The strike price for a particular technology is different to the levelised cost of the respective technology, due to the factors indicated above, but also for a number of other reasons:
- Some costs are not included in the levelised costs (e.g. those related to the generator's share of transmission losses, costs of trading and imbalance costs).
 - Power purchase agreements and their specific discounts;
 - Contract length: the levelised cost is defined over the operating life of a project; when the CfD contract length is shorter than the operating life of the project (which is the case for all 5 notified projects) and wholesale prices and capacity market revenue post-contract are lower than the levelised cost, the strike price must be increased above the levelised cost to compensate for this;
 - Other revenues that generators would receive (e.g. Climate Change Levy Exemption Certificates (LEC) provide around £5/MWh revenue and it was assumed the beneficiaries will receive LEC revenue; therefore the strike price was reduced to account for this).
41. The key assumptions used for the calculation of strike prices, including for levelised costs, fossil fuel prices, effective tax rates, PPA discounts and maximum build assumptions are listed in the UK Government's levelised cost report⁹ and the report from the System Operator¹⁰
42. The administratively set strike prices decrease over time, reflecting the expected decrease of the levelised costs. They were set at 155 £/MWh for 2014/2015 but will be reduced to 150 £/MWh as of 2016/2017 and 140 £/MWh as of 2017/2018. For the five beneficiaries, the strike price depends on the moment when the plant is expected to be commissioned.

⁹ 'Electricity Generation Costs December 2013' DECC (2013), available at <https://www.gov.uk/government/publications/electricity-generation-costs>

¹⁰ Available at <https://www.gov.uk/government/publications/electricity-market-reform-delivery-plan>

The strike price for each of the beneficiaries is indicated in table 2 above. The Commission issued guidance on renewable energy support schemes¹¹ which establishes a broad methodological framework for calculating renewable technologies' costs. This is available for the Member States, and could be used in the future with the aim to avoid price distortions across Europe.

National legal basis

43. The national legal basis is the Energy Act 2013.

Financing: budget, aid intensity and duration

44. The total budget for each of the five notified projects is presented in the table below.

Table 4 – The total budget for the notified projects

Beneficiary	Total budget (£)
Burbo Bank Extension Offshore Wind Farm	0.8bn
Walney Extension Offshore Wind Farm	2.1bn
Beatrice Offshore Wind Farm	1.9bn
Dudgeon Offshore Wind Farm	1.5bn
Hornsea Offshore Wind Farm	3.4bn

Source: the UK authorities

45. Investment Contracts were awarded to the notified projects in April 2014 and were signed in May 2014 subject to Commission approval. The UK explained that the earliest possible payment date under the Investment Contracts instrument is April 2015, subject to the individual projects receiving State aid approval by the European Commission. In no case aid will be paid to individual projects before the commissioning date.

46. The CfD counterparty will be funded through a statutory levy imposed on all licensed electricity suppliers, based on the suppliers market share, defined by metered electricity use. Suppliers will have to meet their obligations from their own resources but will be free to pass the costs on to consumers as part of their overall pricing strategies.

47. For the five offshore wind projects, the duration of payments through Investment Contracts is 15 years from generation start date.

Transparency

48. With regard to reporting and transparency, the UK indicated that all the Investment Contracts awarded through the FID Enabling for Renewables process have been published online in the form in which they were signed¹².

¹¹ Decision to the Commission's guidance on renewable energy support schemes (SWD(2013)439).

¹² Available on the website <https://www.gov.uk/government/publications/final-investment-decision-fid-enabling-for-renewables-investment-contracts>

Cumulation

49. The UK clarified that the projects that have been awarded Investment Contracts will be unable to receive a CfD for the same electricity generation under the new support scheme. Also, no project receiving payments under Investment Contracts will be able to receive Renewable Obligation Certificates for the same electricity generation. Finally, renewable generation that receives support through an Investment Contract will not be able to participate in the Capacity Market or receive investment aid during the term of the Investment Contract.
50. The UK explained that LEC are available for renewable electricity generation. LEC are not considered to be State aid by the UK. Nevertheless, since it has been assumed that CfD plants (including those with Investment Contracts) will receive LEC revenue, the Strike Price has been reduced to account for this.
51. Based on the above principles, the UK explicitly confirmed for each of the five beneficiaries that neither the generator nor any of its direct or indirect stakeholders has received, been granted or applied for any other support from the UK or from any other Member State in relation to constructing and operating the facility subject to the Investment Contracts.

III. ASSESSMENT

Presence of state aid

52. A measure constitutes State aid in the meaning of Article 107 (1) TFEU if it is *"granted by a Member State 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 [...] in so far as it affects trade between Member States.*
53. The beneficiaries will receive support from the UK Government-owned counterparty, the Low Carbon Contracts Company Ltd, for the electricity generated by the notified projects. The notified measures favour the generation of electricity from renewable sources (in this case offshore wind) by the selected beneficiaries. Electricity is widely traded between Member States and therefore the notified measures are likely to distort competition on the electricity market and affect trade between the Member States. Therefore the notified measures constitute State aid in the meaning of Article 107 TFEU.

Legality of the aid

54. Based on the information provided by the UK, the Commission notes that the Investment Contracts were awarded to the notified projects in April 2014 and signed in May 2014. However, no payments will be done before State aid approval has been obtained. The Commission considers therefore that the UK fulfilled its obligations under Article 108(3) TFEU.

Compatibility of the aid

55. The Commission notes that the notified measures aim at promoting the generation of electricity from renewable sources, namely offshore wind. As it regards support for electricity from renewable sources, the notified measures fall within the scope of the Guidelines on State aid for environmental protection and energy 2014-2020 (EEAG)¹³. The aid is paid as a variable premium, on top of a reference electricity price, for a duration of 15 years. The Commission has therefore assessed the notified measures based on the general compatibility provisions of the EEAG (set out in its section 3.2.) and based on the specific compatibility criteria for operating aid granted for electricity from renewable energy sources (section 3.3.2.1. of the EEAG) as required in point 120 for individual notified operating aid measures.

Objective of common interest

56. The aim of the notified aid measures is to help the UK achieve the ambitious climate change and energy sustainability targets set by the EU as part of its EU 2020 strategy. The projects will increase the share of the electricity produced from renewable sources in the

¹³ OJ C 200 of 28.06.2014.

UK and will have a significant contribution in terms of reducing CO₂ emissions. In line with points 30 and 31 of the EEAG, the UK defined the objective of the measures and explained the expected contributions toward ensuring a competitive, sustainable and secure energy system.

57. The Commission considers that the notified aid measures are aimed at an objective of common interest in accordance with Article 107(3)(c) of the Treaty.

Need for state aid and appropriate instrument

58. In point 107 EEAG the Commission acknowledges that "under certain conditions State aid can be an appropriate instrument to contribute to the achievement of the EU objectives and related national targets".

59. For the notified projects the UK demonstrated that without the aid the projects would have been cancelled or significantly delayed. The UK provided a detailed financial analysis for each of the notified projects, illustrating the costs of each project. The Commission noted that without the aid none of the notified projects would be financially viable, as their costs for generating electricity would be much higher than their income from the sale of the electricity thus generated.

60. According to point 116 EEAG, in order to allow Member States to achieve their targets in line with the EU 2020 objectives, the Commission presumes the appropriateness of aid to energy from renewable sources and the limited distortive effects of the aid provided all other conditions are met.

61. Consequently, the Commission considers that the aid for the notified projects is necessary and that it is granted by means of an appropriate instrument to address the objective of common interest.

Incentive effect

62. In line with point 49 of the EEAG, the incentive effect occurs if the aid induces the beneficiary to change his behaviour towards reaching the objective of common interest which it would not do without the aid.

63. As mentioned in recital 36, the levelised cost of electricity from offshore wind farms are well above market rates. Therefore, the notified projects would not be carried in the absence of aid, as without the aid they would not be financially viable. The financial analysis provided by the UK authorities demonstrate that, without aid, the internal rate of return (IRR) of all the notified projects would be negative. In such a situation, a positive final investment decision would not be taken by any rational market player. The aid therefore allows beneficiaries to change their behaviour and invest in the notified offshore wind projects.

64. The UK confirmed that the applicants for Investment Contracts were required to submit a number of applications under the application process. The Commission notes that the

notified measures comply with the obligation to use an application form for aid, as set out in point 51 of the EEAG. The Commission further notes that the application was submitted before work on the projects has started.

Proportionality

65. According to point 69 of the EEAG, environmental aid is considered to be proportionate if the aid amount per beneficiary is limited to the minimum needed to achieve the environmental protection objective aimed for.
66. As foreseen by point 124 of the EEAG, the aid is provided in the form of a variable premium, on top of the reference price for electricity. This premium consists in the difference between the strike price (the level of revenues calculated as necessary for offshore wind projects to reach an acceptable rate of return) and the reference price of electricity.
67. The Commission notes that the projects were selected based on a competitive bidding process. However, as the strike price was set administratively, the projects were not evaluated on the basis of the minimum support level they would require.
68. The UK explained that the level of the strike price for offshore wind projects was calculated considering a range in hurdle rates of 9.7% - 10.1%. Such rates are consistent with the ones previously approved by the Commission for offshore wind projects in the UK (e.g. for the Renewable Obligation scheme). Table 5 below presents the levelised costs and the expected IRR for each of the notified projects.

Table 5 – Summary of the levelised costs and IRR details for the notified projects

Technology	DECC generic levelised cost range	DECC generic pre-tax real IRR range	DECC generic post-tax nominal IRR range
Offshore wind (Round 2) (FID year 2014)	Range: £114-£147/MWh Central scenario: £129/MWh	Range: 7.9-11.4% Central scenario: 9.7%	Range: 8.9-12.0% Central scenario: 10.5%
Project	Project levelised cost	Project pre-tax real IRR	Project post-tax nominal IRR
Beatrice Offshore Wind Farm	[...]	[...]	[...]
Burbo Bank Extension Offshore Wind Farm	[...]	[...]	[...]
Dudgeon Offshore Wind Farm	[...]	[...]	[...]
Technology	DECC generic levelised cost range	DECC generic pre-tax real IRR range	DECC generic post-tax nominal IRR range
Offshore wind (Round 2) (FID year 2015)	Range: £111- £143/MWh, Central scenario: £126/MWh	Range: 7.9-11.4% Central scenario: 9.7%	Range: 8.9-12.0% Central scenario: 10.5%
Project	Project levelised cost	Project pre-tax real IRR	Project post-tax nominal IRR
Walney Extension Offshore Wind Farm	[...]	[...]	[...]

* Business secrets

Technology	DECC generic levelised cost range	DECC generic pre-tax real IRR range	DECC generic post-tax nominal IRR range
Offshore wind (Round 3) (FID year 2016)	Range: £117-£155/MWh Central scenario: £133/MWh	Range: 8.3-11.7% Central scenario: 10.1%	Range: 9.2-12.3% Central scenario: 10.8%
Project	Project levelised cost	Project pre-tax real IRR	Project post-tax nominal IRR
Hornsea Offshore Wind Farm Project One	[...]	[...]	[...]

Source: the UK authorities

69. Based on the information received from the UK, the Commission was able to verify that the amount of aid for each project is limited to what would be necessary to allow the project to reach a reasonable rate of return. The Commission further notes that with the aid the notified projects are all reaching an IRR below the central value of the hurdle rates considered by the UK.
70. The Commission verified the compliance of the notified measures with section 3.3.2.1. (Operating aid for electricity from renewable energy sources) of the EEAG. The Commission notes that (as foreseen by point 124 of the EEAG) the beneficiaries will sell the electricity produced directly in the market. The Commission further notes that the Contracts for investments were already signed, and will become binding for the UK once they receive State aid approval. The aid will be granted before 1 January 2016. The aid is granted as a variable premium, for 15 years, therefore not exceeding the depreciation period of the plants. Furthermore, the beneficiaries have not received any other aid.
71. The Commission notes that the aid granted to the notified projects will not be cumulated with any other aid. Moreover, the UK confirmed for each of the five beneficiaries that neither the generator nor any of its direct or indirect stakeholders has received any other support from the UK or from any other Member State in relation to the notified projects.
72. Based on the above, the Commission considers that the aid granted for the notified projects is proportional.

Distortion of competition and balancing test

73. According to point 90 of the EEAG, the Commission considers that Aid for environmental purposes will by its very nature tend to favour environmentally friendly products and technologies at the expense of other, more polluting ones. Furthermore, the effect of the aid will in principle not be viewed as an undue distortion of competition since it is inherently linked to its very objective.
74. The Commission further notes that each of the generators represents a very small fraction of the UK electricity market. Even when the parent companies are considered, their market shares remain very small, reaching 10.5% for Beatrice Offshore Wind farm, and remaining below 1% for the other 4 projects. As for SSE PLC (the parent company of Beatrice Offshore Wind farm) the project will lead to a rather minor increase in existing installed capacity that will not distort the market since the resulting increase in market

share is not significant (0.7%). Therefore, the Commission considers that the notified projects would not have any significant impact on competition in the UK electricity generation market.

75. The Commission therefore considers that aid to renewable energy does not have undue distortive effects on competition and trade so that the overall balance is positive.

Transparency

76. According to point 104 of the EEAG, Member States have the obligation to ensure the transparency of the aid granted, by publishing certain informations on a comprehensive State aid website. In line with point 106 of the EEAG, Member States are requested to comply with this obligation as of 1 July 2016.

The Commission notes that the UK committed to ensure the transparency of the aid granted to the notified projects and indicated that all the Investment Contracts awarded through the FID Enabling for Renewables process have been published online in the form which they were signed.

Other aspects – Compliance with Article 30 and 110 TFEU

77. As indicated in point 29 of the EEAG, if a State aid measure or the conditions attached to it (including its financing method when it forms an integral part of it) entail a non-severable violation of Union law, the aid cannot be declared compatible with the internal market. In the field of energy, any levy that has the aim of financing a State aid measure needs to comply in particular with Articles 30 and 110 TFEU. The Commission has therefore verified if the financing mechanism of the notified aid measures complies with Articles 30 and 110 TFEU.
78. The UK explained that the payments under the FID Enabling for Renewables Investment Contracts will be financed by a levy imposed on electricity suppliers (the “supplier obligation”). It is envisaged that, once the secondary legislation necessary to introduce the supplier obligation is in force and the Investment Contracts have been transferred to the CfD Counterparty, the CfD Counterparty will calculate and collect the payments under the supplier obligation. The UK explained that the supplier obligation will be imposed on all licensed suppliers in relation to their market share based on energy volumes sold.
79. According to the UK, the supplier obligation will be a compulsory levy, likely to be classified as a direct tax. The Commission considers that the tax, as planned by the UK, will be very similar to a tax on the electricity consumed. Should the levy be an indirect tax, the UK shall ensure that it complies with Directive 2003/96/EC and Directive 2008/118/EC.
80. In order to alleviate any concern regarding compliance with Article 30 and 110 TFEU, the UK will ensure that the imported renewable generation does not bear the costs of CfD payments.

81. In that respect and in line with the decision on Contract for Difference for Renewables (SA.36196), the UK has committed that it will, for so long as the scheme is not open to electricity generators located outside of Great Britain, adjust the way in which electricity suppliers' liabilities for CfD payments are calculated so that eligible renewable electricity generated in EU Member States outside Great Britain and supplied to customers in Great Britain is not counted towards suppliers' markets shares. The UK will remove this exemption once non-Great Britain generators are eligible to apply for CfDs.
82. The UK will use 'Guarantees of Origin' certificates issued by other EU Member States to identify eligible electricity, together with evidence that the electricity has been supplied to a consumer in Great Britain during the relevant period for which suppliers' liabilities for CfD payments are being calculated. Once the eligible electricity is identified, this will be used to calculate a supplier's final liability and will be the basis for any reimbursement from interim payments already made by the supplier.
83. To ensure that the scope of the exemption is in line with the potential market distortion, the UK will (subject to administrative practicality) restrict it to those generators that would have been eligible for CfDs had they been located in Great Britain¹⁴.
84. Furthermore, the UK will introduce a quantitative limit on the total amount of generation exempted (the current level of imported renewable energy) in order to prevent the overall impact of the exemption becoming distortive, due to a large and sudden increase of imported renewable electricity. In order to allow for an increase of imports of eligible renewable energy, the maximum reimbursement for imported renewable energy will increase by 10% compared to the previous year (adjusted to reflect the quarterly payment reconciliation of our current mechanism but in any event recognising the 10% year on year growth).
85. Lastly, the UK will ensure that no payments are made to CfD generators or holders of investment contracts before this exemption is in place, or if this is not possible the UK will put in place a mechanism to reimburse suppliers for any imported eligible renewable electricity supplied before the exemption comes into effect but after CfD payments have started to be made.
86. In the light of the above, the Commission considers that the financing mechanism of the notified aid measures does not introduce any restrictions that would infringe Article 30 or Article 110 TFEU.

Conclusion with regard to the compatibility of the notified measures

¹⁴ Specifically, this means that imported renewable will only be eligible for an exemption if it was generated by a plant which is commissioned after the CfD regime comes into effect (1 April 2015, because generators that commissioned before this date would not be eligible for CfDs) and is of a technology that would be eligible for a renewable CfD was it generated in a plant located in the UK.

87. In light of the above, the Commission considers that the notified aid measures pursue an objective of common interest in a necessary and proportionate way and that therefore the aid is compatible with the internal market on the basis of the EEAG.

IV. CONCLUSION

88. The Commission has decided, on the basis of the foregoing assessment, to consider the notified aid measures compatible with Article 107(3)(c) of the Treaty on the Functioning of the European Union.

89. If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:
<http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent to:

European Commission
Directorate-General for Competition
State Aid Registry
B-1049 BRUSSELS
Fax no: + 32-2-296.12.42
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Joaquin ALMUNIA
Vice-President