



Taiwan Considers Making Local Vessels Mandatory For Some Offshore Wind Farm Construction

By Paul J. CASSINGHAM and Holly CHU

Two Taiwan government agencies are considering making the use of Republic of China ("ROC") flag vessels mandatory for certain offshore wind farm construction activities. The Bureau of Energy ("BOE") in Taiwan's Ministry of Economic Affairs is expected to convene a meeting of developers, contractors and vessel operators later this month to solicit information on the vessel specifications required for OWF construction and the availability of qualified ROC flag vessels. At the same time, the Maritime Port Bureau ("MPB") in the Ministry of Transportation and Communications is also considering restrictions on the use of non-ROC flag vessels for OWF construction, as well as a possible liberalization of the requirements for a vessel to fly the ROC flag.

Taiwan law currently does not require that any offshore construction activities be conducted only by ROC flag vessels. Restrictions exist on the use of People's Republic of China ("PRC")-built and PRC flag vessels, but not on other foreign vessels. Some owners and operators of ROC flag vessels have complained that foreign developers and contractors have contracted for foreign flag vessels for OWF construction when qualified ROC flag vessels are available. Foreign developers and contractors have responded that ROC flag vessels do not meet necessary specifications, are not available, or are priced higher than foreign flag vessels. The BOE and the MPB have been studying this situation. Their policy direction is becoming clear, and action appears imminent.

BOE officials have indicated that they plan to convene a meeting of developers, contractors and vessel operators later this month to solicit information on the detailed vessel specifications



Photo courtesy of Matthew T. Rader

required for OWF construction and the availability of qualified ROC flag vessels. The BOE anticipates that a "maritime construction consulting platform" will develop out of this meeting. The contours of this platform do not appear to have been finalized yet, but the BOE apparently is considering appointing certain industry experts who would issue opinions whether ROC flag vessels meeting OWF construction specifications are available in the market. Details remain sketchy, but developers and contractors presumably would be expected to follow the experts' opinions.

The MPB also appears to be contemplating restrictions on non-ROC flag construction vessels, though it is not clear what exact restrictions the MPB will adopt, or when. The Regulations on Entry Applications for Non-ROC Flagged Construction Vessels (申請非本國籍工作船來臺作業要點) may be amended to require any foreign flag vessel coming to Taiwan for OWF construction activities to first apply for a classification survey from Taiwan's CR Classification Society. The MPB may also require that developers and contractors use ROC flag construction vessels unless no qualified ROC flag

vessels are available. Finally, the MPB may require that certain offshore support vessels, survey vessels and cable laying vessels be ROC flag vessels, as the MPB believes that a sufficient number of these types of vessel are available in Taiwan.

Under Taiwan's Law of Ships, a vessel can qualify to fly the ROC flag only if it is owned by an ROC national or by an ROC-incorporated entity that meets certain requirements. In the case of an ROC limited company, more than half of the capital of the company must be owned by ROC nationals and all directors authorized to act on behalf of the company must be ROC nationals. In the case of a company limited by shares, more than half of the capital of the company must be owned by ROC nationals, and the company's chairman and more than half of its directors must be ROC nationals.

The Law of Ships does not define the term "ROC national". Other laws dealing with citizenship and

immigration use this term, and restrict it to natural persons. In the context of vessel ownership, however, such a narrow definition would mean that any company owning an ROC flag vessel would need to be majority owned by natural persons. An ROC flag vessel could not be owned by a subsidiary of another company.

In addition to restricting the use of non ROC flag vessels for OWF construction, the MPB is considering adopting a regulatory definition of "ROC national" for purposes of the Law of Ships that would include ROC companies meeting the requirements described above. If adopted, such a definition would allow ROC flag vessels to be owned by corporate subsidiaries, but would not permit broader foreign ownership of ROC flag vessel-owning companies.

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