



Unite submission to BEIS consultation Contracts for Difference (CfD): changes to Supply Chain Plans and the CfD contract

This submission is made by Unite, the UK and Ireland's largest trade union with over one million members across all sectors of the economy including manufacturing, energy and utilities, construction, financial services, transport, food and agriculture, information technology, service industries, health, local government and the not for profit sector. Unite also organises in the community, enabling those who are not in employment to be part of our union.

We have not answered all of the questions posed in this consultation but have sought in the time permitted to highlight some key issues for Unite illustrating these with examples and experiences, particularly in relation to Scotland. We are also aware of and support the STUC's submission to this consultation. While supportive of the proposals for supply chain plans, we also believe there is a need to specify local requirements and strengthen trade union engagement in the process. We would be happy to follow up on any of the points made.

Introduction

Unite recognises the importance of addressing the climate crisis, providing energy security and delivering a sustainable environment.

Unite is redoubling its efforts to secure a just transition to a low carbon world that ensures that workers and their communities are treated fairly, protected in the event of plant closures and are central to the debate on alternative high quality jobs in their communities.

In addition, Unite will continue to campaign for:

- Investment in renewable and low-carbon energy
- Government and industry support for all our industries in the transition from old to new technologies, including energy, manufacturing and transport
- New build homes to be fully energy efficient
- Appropriate incentives to improve home and business insulation
- A sustainable, affordable and accessible integrated public transport system
- Businesses to audit their energy use to be as efficient as possible

- Support for trade union representatives to promote energy efficient workplaces and tackle the climate crisis.

The UK and Scottish Governments must actively support a 'just transition' in order to achieve net zero emissions. The central part in delivering this objective will be to ensure that jobs are directly created in the UK through a coherent and co-ordinated industrial agenda with a green skills strategy at its core.

The Contracts for Difference (CfD) scheme is the main mechanism for supporting low-carbon electricity generation. The scheme is designed to incentivise investment in renewable energy by effectively guaranteeing prices for renewable energy suppliers. The process has substantial shortcomings and reform of the CfD arrangements is absolutely necessary in order to help improve the outlook for supply chain firms throughout the UK.

The UK Government should work with trade unions, industry and the devolved administrations to develop a robust UK supply chain plan for onshore and offshore wind, which delivers tangible benefits for the domestic jobs market which is common in other areas of major energy infrastructure procurement.

Responses to questions

1. The government welcomes views on whether the Supply Chain Plan guidance document is clear in setting out what is required of applicants to support the drafting and submission of their Supply Chain Plan, Updated Supply Chain Plan and Supply Chain Implementation Report. Please provide information on what could improve the clarity of the guidance if applicable.

Unite welcomes the proposals that generators must pass an assessment of their Supply Chain Plan, Updated Supply Chain Plan and Supply Chain Implementation Report. However, rather than be 'developer-led' as stated in the consultation, this process should also set specific requirements for local content. The example of Bifab, which only a few years ago employed upwards of 1400 people but went into administration at the end of last year, highlights the implications of the current model. As JV Driver stated in evidence to the Scottish Parliament:

“Developers must agree supply chain plans that guarantee a minimum amount of work for the Scottish supply chain. That is what happens in most jurisdictions in which we operate and we view it as a key success factor for supply chains in the Scottish renewables sector.”¹

We note the associated supply chain questionnaire consultation proposes that applicants anticipate the level of UK content in their project and suggests that this question could receive 25%, 35% or even 45% of the marks in that section. While we would support significant weighting, we are concerned that this supply chain plan consultation does not specify local content requirements. Rather, there is too great a focus on a developer-led process:

¹ Economy, Energy and Fair Work Committee, Official Report, 1 December 2020, <https://www.parliament.scot/parliamentarybusiness/report.aspx?r=12986>

“the proposal put forward is a developer-led Supply Chain Plan process which provides an opportunity for developers to showcase their own commitments to the supply chain and the benefits it brings to their projects. The proposal is not expected to significantly impact project costs compared to the existing process, given that the CfD auction process incentivises developers to submit their lowest-price bids.”

While we recognise investment is needed to upgrade UK ports and make the domestic supply chain more competitive, the lowest-price bid approach of CfD has been a significant contributing factor in the failure to support local supply chains. There is a need for CfD to take a more rounded assessment of what constitutes value – taking into account the environmental impact of manufacturing and transporting content, as well the employment and tax impact of where work is undertaken. The recent Economy, Energy and Fair Work Committee of the Scottish Parliament, makes similar recommendations along these lines.²

Unite supports those calls which states that there is a need for the CfD process which is assessed on factors beyond price and we need local content requirements within the supply chain plan process. Studies show that local content requirements for renewable energy projects have been used in Ontario, Quebec, Spain, Italy, France, Greece, Croatia, Turkey and the United States.³ Ultimately, when setting an exam, you outline what constitutes a pass. The same approach should be taken to supply chain plans – with a minimum proportion of local content stipulated.

2. The government welcomes views on whether the proposed timing for submission of the Updated Supply Chain Plan is appropriate.

Unite believes that there is an urgent requirement to review the Supply Chain Plan in light of a gross failure by the UK domestic supply chain to benefit from contracts awarded through the Contracts for Difference (CfD) scheme.

The process has substantial shortcomings and reform of the CfD arrangements is absolutely necessary in order to help improve the outlook for supply chain firms throughout the UK. The UK Government should work with trade unions, industry and the devolved administrations to develop a robust UK supply chain plan for onshore and offshore wind, which delivers tangible benefits for the domestic jobs market which is common in other areas of major energy infrastructure procurement.

3. The government welcomes views on whether the proposed timing for submission of the Supply Chain Implementation Report, whereby the timing is agreed by both parties through the monitoring process, is appropriate and ensures a balance between robustness of delivery and project certainty.

4. The government welcomes views on introducing new powers in legislation for the Secretary of State to assess and pass or fail a Supply Chain Implementation Report.

² Economy, Energy and Fair Work Committee (2021) ‘BiFab, the offshore wind sector and Scottish supply chain’ <https://sp-bpr-en-prod-cdnep.azureedge.net/published/EEFW/2021/1/22/61814066-9ae0-4b92-9829-571d33cb238e/EEFWS052021R01.pdf>

³ UNCTAD (2014) ‘Local Content Requirements and the Green Economy’ https://unctad.org/en/PublicationsLibrary/ditcted2013d7_en.pdf

We support the introduction of new legislative powers for the Secretary of State to pass or fail a supply chain implementation report.

Unite criticised the announcement by the Prime Minister in October 2020⁴ to commit 60 per cent of the turbines to be manufactured in the UK as ‘rehashed rhetoric’⁵. The latest ministerial statement followed the original recommendation by the UK Offshore Wind Industry Council (OWIC) in March 2018 to the UK Government that Supply Chain Plans should achieve 60 per cent of life cycle costs to be UK sourced by 2030. However, the UK Government has repeatedly failed to act on this recommendation for years and belatedly adopting the target only serves to highlight years of inaction and abandonment of the domestic supply chain. Unite believes that as part of this process environmental and labour standards with enforcement clauses must be a legal consideration in the bidding for contracts process across the UK.

Unite appreciates that the CfD process is a reserved issue but as we have repeatedly pointed out there are many levers at the Scottish Government’s disposal so to simply blame the lack of outcomes on the process being devolved is deliberately misleading and disingenuous. There are powers relating to planning, renewables energy, procurement, the Crown Estate and Marine Scotland which together could and should have exercised greater leverage in the contractual process as acknowledged by the Scottish Government in May 2019⁶.

5. The government welcomes views on introducing a new Operational Condition Precedent with the potential consequence of CfD contract termination if a Supply Chain Implementation Report certificate is not provided to the LCCC before the Longstop Date. Please include views on possible impacts, including on financing arrangements, and evidence where applicable.

Unite fully supports the proposal to include termination of a CfD contract as a penalty. As the consultation points out, this is consistent with the use of Supply Chain Plan statements as an eligibility requirement/operational condition. Without this backstop, the operational condition precedent (OCP) would not be worthy of the name.

We are aware of industry opposition to penalties, but the track record of industry highlights why penalties are necessary. Evidence shows that the highly financialised nature of the offshore wind sector pushes risk down the supply chain with numerous reports of workers being paid less than the minimum wage and local job promises not being met. If working conditions in the supply chain are to improve and local economic benefit is to accrue, there is a clear need for developers to face sanction before CfD payments commence. The supply chain process outlined in the consultation appears to enable this and should be retained.

6. The government welcomes views on the proposed drafting change to introduce a new Operational Condition Precedent in the CfD contract and whether the existing provisions to provide extensions to the MDD, Target Commissioning Window and Longstop Date are sufficient to cover events or circumstances that may lead to a delay in obtaining a Supply Chain Implementation Report certificate.

⁴ <https://www.gov.uk/government/news/new-plans-to-make-uk-world-leader-in-green-energy>

⁵ <https://unitetheunion.org/news-events/news/2020/october/pm-s-windfarm-pledge-is-hollow-words-for-bifab-and-cs-wind-as-scottish-yards-sit-idle/>

⁶ <https://www.gov.scot/news/offshore-wind-summit-commits-to-way-forward/>

7. The government welcomes views on whether it is more appropriate for BEIS or the LCCC (given the private law nature of the CfD) to undertake the monitoring and assessment of the implementation of Supply Chain Plans.

Whether it is BEIS or the LCCC monitoring and assessing the implementation of supply chain plans, it is critical that the process is appropriately resourced, and independent of industry. Unite would also urge that trade unions are given a role in the process. In many European countries with more productive economies than the UK, corporate governance is co-determined, wages are sectorally bargained, and industrial policy is jointly developed with trade unions. Trade unions should be engaged in monitoring and assessing supply chain plans as well as the wider low-carbon industrial and policy environment.

Unite also believes that UK Government and devolved administrations must be directly involved in the monitoring and assessment of Supply Chain Plans. This could take the form of the Crown Estate and Marine Scotland in conjunction with other public bodies to be charged with enforcement powers. An Offshore Wind Summit held jointly by the Cabinet Secretaries for the Finance and Energy Departments of the Scottish Government promised to explore how enforcement and monitoring could take place on the following basis:

- the options open for attaching supply chain conditions and incentives to Crown Estate Scotland leases
- ways in which the Scottish Parliament reviews and approves decommissioning plans.

The commitments followed a series of contracts being won by companies around the world. The Moray East and Kincardine offshore wind farm projects have a total value of around £2.8 billion. The fabrication work for five platforms supporting the Kincardine project were awarded by procurement firm Cobra Wind International to the Spanish state shipbuilders Nevantia. Meanwhile, the Moray East project procurement firm GeoSea DEMA has awarded contracts for one hundred turbine jackets to UAE fabricators Lamprell and Belgian steel constructors Smulders.

Furthermore, following a request by Unite and the GMB trade unions, the Scottish Parliament's Economy, Energy and Fair Work Committee held evidence and has now published a report on its inquiry into 'BiFab, the Offshore Wind Sector and Scottish supply chain' on 22 January, 2021⁷. The conclusions of the Scottish Parliament report relevant to the CfD process which Unite is supportive of are as follows:

- **Section 152.** The Committee believes that all reasonable steps should be taken to support a robust and competitive local supply chain for offshore wind. The Committee urges the UK Government to fully consider all options available to it to balance investment in offshore wind, energy prices and local supply chain benefits. This should include, but not be exclusive to, the consideration of increased contractual requirements to demonstrate that consideration has been given to local supply chains, requirements on fair work policies and pay, and wider environmental factors, as detailed later in this report.

⁷ *'BiFab, the Offshore Wind Sector and Scottish supply chain'*, Scottish Parliament Economy, Energy and Fair Work Committee (January, 2021): [URL](#)

- **Section 153.** Following its consultation process, the Committee urges the UK Government to design and implement changes to the CfD process with urgency. The Committee encourages the Scottish and UK Governments to work together to ensure that updated CfD processes align with the first round of ScotWind Leasing.
- **Section 154.** The Committee notes the Minister for Business, Energy and Clean Growth's comment that "the proof of the pudding will be in the eating" when auction round 4 takes place. The Committee also notes that Scottish capacity as a share of total UK capacity has reduced in the most recent CfD allocation rounds. It is therefore vital that changes are made in advance of the forthcoming auction round to ensure that Scottish firms and workers may benefit fully from these substantial opportunities.
- **Section 162.** The Committee believes that, in order to be effective, it is vital for commitments made in supply chain plans to be monitored and effective enforcement action taken where the developer deviates from the agreed plan.

8. The government welcomes views on the extent to which the proposed revised Supply Chain Plan process will support the government's objectives to encourage the growth of sustainable, efficient supply chains and support regional growth, skills, and productivity.

Unite welcomes measures in the consultation to ensure supply chain plans are monitored, assessed, and penalised for non-compliance. However, local content requirements and trade union engagement in the process is also needed. More generally, CfD contracts should be awarded based on a wider socio-economic and environmental assessment of value, not simply on price.

The Scottish based firm BiFab after losing out on previous contracts then bid to secure around eight jackets for the Neart na Gaoithe (NnG) offshore windfarm, a £2 billion project which is being built off the coast of Fife by EDF. However, all of the platforms for its 114 turbines are now being manufactured in China and the United Arab Emirates after months of speculation towards the end of 2020. The Scottish Government withdrew from an undertaking to underwrite the risk of EDF procuring jackets in Scotland which culminated in BiFab going into administration in December 2020 following a dispute between the company and the Scottish Government whereby the former was informed by the Scottish Government that it could no longer provide assurances for the NnG jacket fabrication contract.

The Scottish Government's decision to walk away from its previous commitments to guarantee BiFab's manufacture of eight turbine jackets on the NnG project significantly contributed to these yards going into administration. Unite and the GMB trade union sought legal counsel from Lord Davidson QC which argued that there was no reason or obligation to walk away from BiFab under EU State Aid regulations as the Scottish Government argued. Unite has also repeatedly highlighted the depressing situation of the Macrihanish based Wind Turbine company CS Wind, which has been sitting idle since November 2019. The yard is the only UK facility manufacturing onshore and offshore wind towers.

In Scotland, there has been no 'just transition' or any 'green jobs revolution'. It is a story of billions of pounds worth of contracts being outsourced around the world with negligible benefits for the domestic market, and local communities.

Employment in Scotland's wider low-carbon and renewable energy economy (LCRE) flatlined between 2014 and 2018. Despite past promises of 130,000 jobs by 2020, direct employment in 2018 was 23,100, down from 23,400 in 2014, with nearly 10% of those in nuclear power.

Moreover, following a series of Freedom of Information Requests by Unite Scotland to the Crown Estate, Marine Scotland and the Scottish Government, the offshore wind farm 'job revolution' created just 6% of the 28,000 direct jobs predicted by this year. Official estimates state that there were just 1,700 full-time jobs in the offshore wind sector in Scotland, a fraction of the numbers projected by Scottish Government Ministers by 2020⁸. There has been minimal green and low-carbon manufacturing jobs directly created in Scotland. Instead, taxpayers are subsidising foreign firms to produce green energy which is supplied to Scottish homes at inflated prices and the work is being done thousands of miles away and shipped back to Scotland on carbon-emitting container ships. Therefore, while the CfD is important, measures relating to infrastructure investment, democratic public ownership, employment legislation, skills, and borrowing powers for devolved institutions will need to be pursued if Government objectives are to be fully met.

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⁸ 'A Low Carbon Economic Strategy for Scotland' (Scottish Government, 2010): [URL](#)