

The Danish Climate Act – delays due to the corona virus

Background

Until a few weeks ago, climate action was the highest priority of Danish legislators. A new Danish Climate Act was proposed in Parliament (we have reported on this previously). The Danish Climate Council recently issued its first recommendations for a sharp increase in the CO2 tax and further development of CCS - Carbon Capture and Storage.

Simultaneously, the “climate partnerships” that were formed by government and industry to recommend specific actions within their industries issued their recommendations, including the partnership for energy. This partnership recommended a significant “electrification” of Denmark and more energy efficiency measures, including for offshore oil and gas production.

We will also shortly report on the future of CCS in Denmark and its legal framework, as CCS appears to be a key component of the green transition.

And on March 16, Energinet, the Danish transmission systems owner, issued a report that Power-to-X (using electrolysis to produce e.g. biomass and hydrogen from electricity) will be a key component in order to reach the 70% reduction target in CO2.

Delays due to the corona virus

According to the time plan in Parliament for the new Danish Climate Act, the new Act should have been through the first reading on 12 March, however the whole day was taken up by emergency legislation due to the corona virus in Denmark. Measures were adopted by a 100% majority of the political parties. Saturday 14 March the Danish borders were closed.

(The draft Climate Act was brought forward on 26 February. On 27 February the first Danish patient of Covid-19 was registered – a journalist who had vacationed in Northern Italy and who is now declared symptom-free again).

The emergency measures in Denmark are unprecedented since WWII and include prohibitions of gatherings of more than 10 persons (with a right for the government to prohibit groups of more than 2), closing of schools and all non-essential shops, new prioritizations in the health-care sector and new far-reaching powers to the police and medical officers.

To our international readers, Denmark is on a lockdown until at least 13 April, with schools, universities, restaurants and bars closed and all employees in the public sector sent home and/or ordered to work from home. Most private companies have done the same. Transportation has ground to a halt, and as an illustration 4,000 employees have been sent home from the Danish/Nordic airline SAS.

Most recently, today March 27, it is reported that a majority in Danish parliament is asking the government to prepare a plan and a time-frame for “opening” Danish society again, and the Danish Finance Minister states he is willing to discuss this and that the government is also preparing “scenarios”.

What's next for the draft Climate Act?

As stated above, the first of three readings in parliament was scheduled for 12 March, however according to the official Danish online gazette the first reading has not been held yet.

Next is scheduled a report from the parliamentary committee on Climate, Energy and Utilities, and the report is currently scheduled for 23 April.

Meanwhile, the political discussions on the climate action plans, which shall implement the measures necessary to achieve the 70% reduction target of CO₂ reductions compared to 1990, continue, albeit at a slow pace.

The politicians first cannot agree whether to initiate real discussion during the pandemic. This is a real problem as even parliament must recognize that large, physical meetings are not possible currently due to the risk of contagion.

Other legal and commercial impact of the virus

The virus and the attendant measures have already taken its toll on Danish businesses and is having an impact on the energy sector as well, including some delays to approvals and consents from the authorities.

The Danish transmission systems owner Energinet has announced that Danish electricity consumption has decreased by at least 10%.

Energinet has also informed the public that its construction activities on- and offshore are being somewhat affected by the security measures necessary to contain the virus, both in their offices and at the work sites.

Private companies also face significant challenges.

The challenges not only include the impact on contracts already entered into, such as determining if there is force majeure, grounds for late delivery, suspensions etc. but also include changes in many more areas.

These include the impact on companies' planned annual general meetings, travel and meeting restrictions, HR and employment law, IT security, delays to public procurement, and a host of other issues.

Furthermore, looking into upcoming projects and new contracts, companies must determine how to treat the corona virus in a legal sense and its effect on future time schedules, milestones, etc. of new projects and contracts.

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