

LOCALIZATION OF TAIWAN OFFSHORE WIND INDUSTRY AND ONWARD: CRITIQUES AND RECOMMENDATIONS FOR ITS POLICY DESIGN THROUGH THE LENS OF WTO LAW

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ABSTRACT

Since the Taiwanese government launched the national development program to promote and develop offshore wind, localization of the offshore wind power industry not tied to the feed-in tariff (hereinafter “FIT”) scheme has become the program’s signature policy. However, discussions on its compatibility with the World Trade Organization (hereinafter “WTO”) law and the potential trade distortion impact are absent in the process of policy design. How the WTO law weighs in to determine the legitimacy of pure local content requirement (hereinafter “LCR”) measures without an attachment to feed-in tariff in the context of energy transition? By dissecting the structure of Taiwan’s national development program for offshore wind and conducting a WTO compatibility analysis on such program, this article argues that although a LCR measure imposed in the context of energy transition, renewable energy development, and/or climate change may run against the national treatment principle, it can still be designed as a WTO-compatible industrial policy if (i) the LCR in services is

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prioritized; (ii) the LCR and government support scheme (such as FIT) are severable; and (iii) Article XX of the GATT (in particular paragraph (b)) is used wisely, in which case the LCR is closely connected to the objectives pursued, thorough effectiveness analysis on the implementation of the LCR has been provided, and due process of law has been honored.

KEYWORDS: *green industrial policy, localization, local content requirements, climate change, renewable energy, energy transition, offshore wind, GATT, TRIMs Agreement, GATS*