A legal framework for a transnational offshore grid in the North Sea

A possible way forward

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Overview presentation

I. Introduction

II. Barriers under international, EU and national law

III. Next steps?
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I. Introduction research

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III. Next steps?
Research on offshore wind
First result:

A LEGAL FRAMEWORK FOR A TRANSNATIONAL OFFSHORE GRID IN THE NORTH SEA

Hannah Katharina Müller
Overview presentation

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II. Barriers under international, EU and national law

III. Next steps?
International law of the sea

› 1982 UN Convention on the law of the sea (UNCLOS)

› Territorial sea
  • Sovereignty, but subject to the Convention

› Exclusive economic zone (EEZ)
  • Sovereign rights for economic exploitation
  • Jurisdiction over construction and use of installations
  • All states: freedom of navigation and to lay cables
Barriers international law

- Focus on exploitation by the national state
- Uncertainty concerning wind farm clusters
- Uncertainty concerning cross-border projects
EU law

▷ No competence to develop offshore grid

▷ EU law provides for the general framework
  ▷ internal market, TEN-E, promotion RES

▷ Two developments
  ▷ Achievement of the internal market
  ▷ Promotion of RES

→ Changing role of energy networks
Main barriers EU law

Main barriers

- Possibility of national support schemes
- Priority or guaranteed access
- Reservation of capacity on cross-border lines

Gives member states the freedom of how to regulate offshore wind energy and its connection
Approaches under National Laws

1) Cables as part of the wind farm
   - Netherlands (OWF)

2) Cables as a separate activity
   - Denmark (TSO), England (OFTO)

3) Clustering
   - Germany (TSO)

4) Cross-border?
Main barriers in national law

I. Wind farm clusters
   › Lack of coordination between OWF and cables/TSO
   › Lack of incentives and legal certainty (with regard to anticipatory investments)

II. Cross-border (hybrid) projects
   › Uncertainty concerning definitions
   › Different responsibility for connection OWF and interconnection
   › Lack of incentives OWF (support schemes and access) and TSO (allocation of capacity)
Result: unclear legal situation
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How to continue?

I. Need for measures to enable wind farm clusters

II. Need for measures to enable cross-border (hybrid) offshore wind projects
Enabling wind farm clusters

1) Identify Offshore Wind Energy Areas

2) Develop Offshore Infrastructure Plans
   - To align offshore wind farms and infrastructure
   - To identify possibilities for wind farm clusters

3) Develop a legal regime for OWF clusters
   - Legal commitment TSO and OWF (payment of damages)
   - Adequate financing regime (anticipatory investments & regulatory approval)
Enabling hybrid projects

1) Develop regional offshore infrastructure plan.

2) Oblige TSOs to identify cross-border alternatives to projects in national plans

3) Regional agreement on how to approve the projects and a legal framework

4) Develop an alternative legal framework for specific projects / no general harmonization
An Alternative Legal Regime

› Provides certainty regarding definitions and responsibilities

› Provides incentives for TSOs (regulatory approval from the outset and attractive tariffs)

› Provides incentives/certainty for OWFs (applicability of support schemes)

› It coincides with regional approach of NRAs
Conclusion and next step?

› Under the current legal framework, an offshore grid will not be developed
  • Necessary to facilitate the first projects!

› North Sea projects
  • The North Sea states have to become active!
  • Can only be achieved through the combined effort!
Will this happen? Up to you

➤ Advantages are financial and environmental. They are also in line with 2030 targets. The North Sea needs a regional instead of national approach.

➤ Legal obstacles can be overcome if national governments can agree on specific projects.

➤ If governments have the political will, they can turn negative arguments into positive approaches.
A chance might be missed

'We can’t agree on the recipe.'
Thank you for your attention

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North Sea Energy Law Programme
parttime LL.M by and for energy professionals
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