

WP7 – HOW DO WE COOPERATE?

COOPERATION OF THE COASTAL STATES AND EU

Cooperation on what?

Developing an offshore grid requires the North Sea states to cooperate with each other:

- Which investments will be made when? The infrastructure of different countries depends on each other
- What technology choices are made and does everyone adhere to these technology choices to make the grid interoperable?
- Can the national regulatory authorities cooperate with each other?

Why not based on EU law?

Between the coastal states that are members of the EU, cooperation could also be based on EU law.

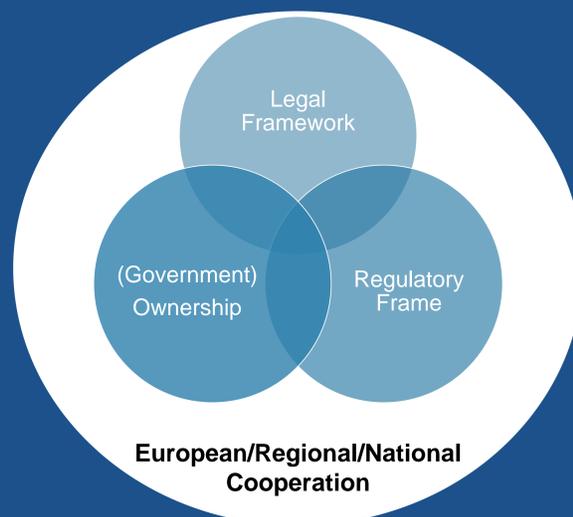
However, this would exclude the UK. The UK has the largest installed capacity of offshore wind and a large potential, and connecting the continental electricity system with the UK brings societal benefits.

Therefore, we look for an option in which the UK can also cooperate.

Long Term Legal Stability

The offshore grid is developed for a long time frame (40+ years) and requires large investments. Such investments will not be made if the legal framework is not sufficiently clear. Therefore, legal stability is essential.

We propose a North Sea Agreement (agreement under international law) to provide a stable legal framework for cooperation on the long term.



What type of agreement?

Different forms of agreement are possible under international law. We recommend to use a mixed partial agreement – an agreement in which all coastal states and the EU participate.

The EU needs to be a signatory because the EU Member-States cannot autonomously conclude international agreements on topics for which they transferred competence to the EU, such as energy and trans-European networks.

The agreement can be limited to the North Sea coastal states, or eventually be extended to also include the Baltic sea states.

Time is of the essence

It may take a long time to negotiate and conclude an international agreement between the coastal states. Therefore, it is necessary to start this process as soon as possible.

NORTH SEA AGREEMENT

What should be included in the Agreement?

Between the coastal states that are members of the EU, cooperation could also be based on EU law.

- To set a common point on the horizon for long-term offshore grid development
- To make a governance and decision-making structure for the offshore grid
- To make clear how long-term grid planning and extension are decided upon
- To adopt rules on regulatory governance, including which entity regulates the offshore grid
- To provide a stable legal framework on conflict resolution in the offshore grid

Examples of Decision-making Structure

There is a need for a decision-making structure that differentiates between different types of decisions, some more technical, some more political. Based on earlier agreements for the governance of a specific geographic area (Rhine Convention, Alpine Convention), it is recommended to reflect the diversity of decisions to be made in the decision-making structure: a (bi)annual conference of the parties where political decisions are made and a committee structure underneath it, where technical and/or economic specialists can focus on specific issues. In order to support the continuity of the cooperation, a secretariat can be installed.

Offshore Grid Governance

Many decisions need to be made concerning the governance of the grid. An important requirement is that it is clear well in advance in which direction the grid is expected to develop: this allows grid owners and the grid infrastructure supply chain to anticipate the project pipeline.

In order to allow grid development to take place in the most cost-effective way, grid expansion decisions should be based on a TYNDP-like process (long time horizon, regular updates) in which the location and timing of OWF construction and grid development are adjusted to each other and to onshore grid developments.

Regulatory Governance

Offshore electricity grids – like onshore electricity grids – are natural monopolies, the conditions for access and the tariffs are regulated. Onshore, the national electricity grid is regulated by the national regulatory authority (NRA). The question is how regulatory governance should be organized for an offshore grid. Different options are: every NRA regulates ‘their’ part of the grid; a new North Sea-regulatory authority is created; this task is given to ACER; or NRAs work more closely together.

The pros and cons of different options have been weighed against each other, and the option with the least costs and fastest implementation is close cooperation between NRAs. NRAs have also indicated that they see this as feasible.