

Contractual arrangements & liability issues

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Building up interlinked offshore wind farms (OWF) and offshore infrastructure is a key challenge across countries and borders, allowing the interconnection of several markets and Member States through new HVDC infrastructures. Stronger cooperation between TSOs and market partners will be inevitable as new interfaces will occur. Defining liabilities and risk allocation is cornerstone to accountability and disputes resolution in case of system malfunctioning and interoperability issues.

Future offshore grid networks will shift from a model where HVDC grids were performed by single vendors towards a multi-vendor / multi-terminal (MV/MT) scenario gathering different countries, TSOs, project promoters and manufacturers.

Special support schemes or cost coverage models shall strive for stronger standardization to ensure good competition and a level-playing field for all market actors.

Procurement schemes and tendering procedures, which are suited for the MV/MT projects shall be developed, which reflect new interfaces and ownership structures in assets and intellectual property. Liability and warranty risks shall be adequately allocated through all phases of a project from design to decommissioning with the aim to bring down project costs.

International experiences regarding offshore liability issues

Within the Eurobar membership we identified two main examples, more are expected to follow.

France:

French law provides for a dedicated offshore indemnification scheme in case of grid connection delays if works exceed the legal deadline or, in specific cases, caused by the deadline provided in the call for tenders. Once in operation, the OWF is entitled to claim damages to RTE in case of outage or curtailment due to an unplanned incident on RTE's equipment. The indemnification shall cover 90% of the damage caused to the OWF (energy loss) after a grace period expressed in MWh/MW & increasing during the term of the offtake contract. This grace period also depends on AC or DC connection solution.

Germany:

German OWF receive a partly remuneration of their revenue losses in case of delayed grid connection and in case of longer-term unplanned outages of the infrastructure. The costs for the remuneration are generally covered by a levy that is born by end consumers. Details on thresholds are laid down in the energy Act art. 17e) and f).

TSOs as entities in charge of planning, design and owners of the infrastructure must be entitled to take appropriate actions against delays or malfunction. Regulatory barriers must be abolished as these steps require a more adaptive and flexible approach.

Offshore market participants on the other hand, require a more standardised grid access contract to avoid misalignments and delays in diverging bilateral agreements to foster an efficient interlinked governance system which is transparent and easier to implement. To give investment security and an adequate framework for suppliers' capacities to ramp-up, a MV/MT environment also depends on a certain level of

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technical grid standardization with -at the same time- sufficient degrees of freedom to optimally adapt to local specificities. Standards in technology must be supported by clear and unambiguous definitions in the regulatory frameworks, e.g. for assets classes, to allow for a stronger integration of sea basins and Member States. From a project promoter's perspective, this approach will avoid multiple negotiations and thereby simplify the contractual arrangement process.

If problems occur with the interconnection of systems from different vendors, each system shall be able to separate and fall back into single subsystem. Planning of adequate fall-back solutions in each step of the project development is a mitigation measure for TSOs to avoid log-in effects and avoid costly set-ups. Thus, the risk of outages of the entire system will be reduced and possible interoperability issues can be solved with due diligence.

The European legal framework shall incorporate these principles i.a. into the network codes, to achieve a truly integrated grid connection across the continent.