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It's time to target sustainable growth

Words: Michael Kingston DWF LLP

An integrated industry-led approach is the only way to help politicians find the Promised Land of maximising Europe's renewable energy potential, argues Lloyd's List's Global Maritime Lawyer of the Year.

As the dust is settling following the British General Election there has never been a more important time for politicians to demonstrate leadership in the renewable energy sector, particularly in relation to offshore wind.

The sector has been dogged by uncertainty leading to great difficulty in projects going ahead, and the need for international co-operation has never been greater if Britain and other European countries are to meet carbon reduction targets.

It is therefore critical now that industry is provided with a platform of certainty to proceed with these very capital intensive projects. It is not just a financial issue, but a societal one, and industry must play its role too. The politicians cannot be expected to do it alone.

According to experts sometime between 2040 and 2100 the last gas and oilfields on land and at sea will be exhausted. Alternative sources of energy are essential,

and therefore only a long term strategy can be sustainable for energy production.

To maximise both Europe's potential and that of each Member State it is paramount to co-operate in relation to our maritime spatial strategy, and to get industry to invest in its potential. To make it work, further interconnectors and a meshed grid in the North Sea, are essential to maximise output.

Using the Netherlands as an individual example, they have accepted a target of 14% of energy consumption from renewable sources by 2020. To achieve this they require 4450 megawatts by 2023.

Their current operational windfarms, Egmond aan Zee and Prinses Amalia produce 228 MW. Although they have Luchterduinen and Gemini under construction, which will produce a further 729 MW, under their national strategy they must find another 3393 MW. Similar obligations, of course, apply to other EU countries, including Britain.



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Whilst most of the wind farms to date are within the territorial waters (the 12 mile limit) much development will have to take place further out in the Exclusive Economic Zone (EEZ). Under the United Nations Convention of the Law of the Seas, each country has exclusive economic rights to the resources on the sea bed up to 200 miles from their coast, or to the median line with a neighbouring country. Critical to maximising output is co-operation in relation to maritime spatial strategy in the North Sea. There are many competing interests.

The Netherlands draft 'Policy Document on the North Sea 2016 – 2021 states that "the expected intensification of the use of the north Sea, in part due to an increasing number of designated uses, will compel us to manage the limited available space sensibly. Increasing usage is putting the marine ecosystem under strain. A dynamic system like the sea calls for a dynamic method of management"

Piece meal development of 'radio' connections on individual projects is not sustainable and will not achieve maximum output. Additionally an international collective approach is much more cost effective.

At present there are approximately 3400 kilometres of cabling in use but in

excess of 3000 km abandoned in the North Sea.

In January in Edinburgh the European Commission held a Workshop on Regional Co-Operation on Energy and Maritime Spatial Planning in the North Sea which DWF was invited to participate in. The need for international co-operation could not have been emphasised more to enable each country to achieve their objective and it is clear that a meshed grid has to be planned and implemented.

But the matter is complicated by each country's different legal systems and licensing systems, where EU directives are implemented differently. This creates legal uncertainty for cross-jurisdiction projects, making it difficult for operators, requiring multilateral agreements to be put in place by the North Sea countries, and in other areas of Europe.

This is not an option but an obligation, based on an agreed policy by Member States, including Britain. It is a legal requirement under European legislation that Member States co-operate in relation to maritime spatial planning. In May 2014 European Maritime Day in Bremen was dedicated to the European Blue Growth initiative.

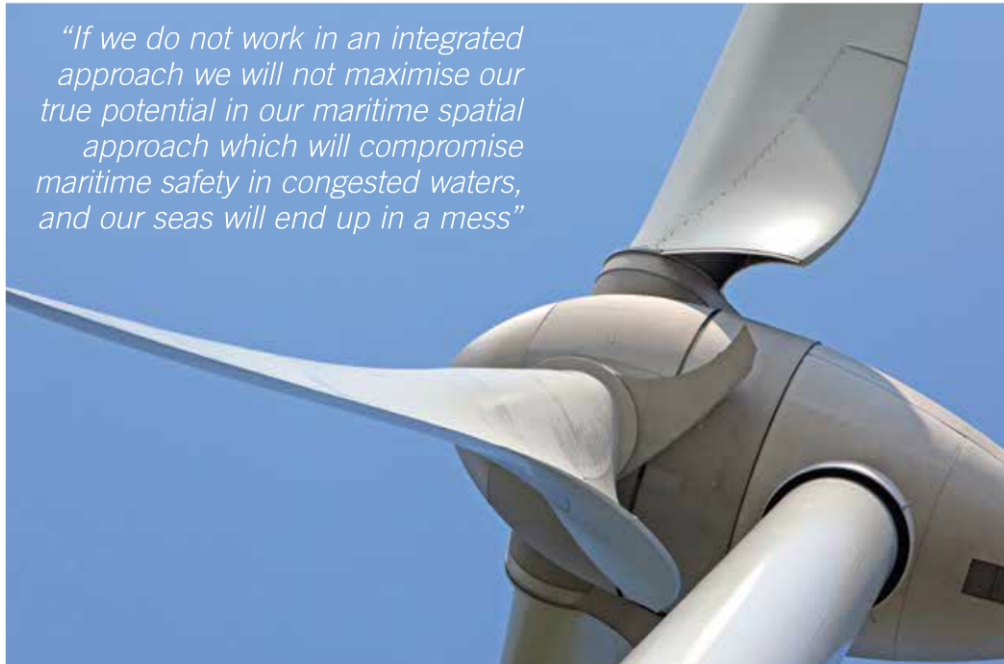
The Conference highlighted the importance of sustainable growth in the marine, maritime and coastal economies as enshrined in the 2012 Limassol Declaration which was agreed following extensive consultation by Member States, including Britain and the European Parliament.

In September 2014 the Maritime Spatial Planning Directive came into force which created the world's first legal requirement for countries to create transparent planning at sea systems and to co-operate with their neighbours to make that happen. The 'Blue Economy' will also be central to discussions at European Maritime Day 2015 in Piraeus later this month.

According to senior Commission representatives in Edinburgh, the political will to make it happen is absent. The Commission is as frustrated as industry that there is a lack of political leadership to get this international co-operation going, and a forum – such as a North Sea forum to focus on the issues to take it forward is required.

The question to be answered is who is going to step up to the mark and help the European Commission and industry?

“If we do not work in an integrated approach we will not maximise our true potential in our maritime spatial approach which will compromise maritime safety in congested waters, and our seas will end up in a mess”



It is also clear from participation in Britain's Department of Energy & Climate Change's Energy Market Review in 2013-2014 that too often a fully integrated approach to agreements and regulation to facilitate projects is lacking.

A failure to consult with the insurance market and the banking sector, at the outset in relation to the Electricity Capacity Mechanism almost resulted in regulation being implemented that would not allow for risk to be transferred into the insurance market. If that cannot happen then banks cannot lend and the projects are not 'bankable'.

Similarly in the offshore wind sector, both in relation to individual projects and the requirements for a meshed grid, it is imperative to consult with the insurance market and banking sector to see what will work and how risk can be transferred to unlock these projects. This includes assessing the technology needed to assist in this process and involving Government support for technology.

It is also arguable that there could be a further political problem following the British election. Amber Rudd is a welcome appointment as Minister for Energy, having served previously as the Parliamentary Under Secretary of State at DECC for over a year, and the Conservative manifesto declared support for large scale offshore technologies, particularly wind farm projects. However uncertainty has been

created by the British Government's commitment to hold an in/out referendum on Britain's membership of the EU.

At the moment the EU is negotiating with the US, the biggest Trade Agreement in history, the Trans-Atlantic Trade Investment Partnership. For Britain to opt-out of having a leading hand in such negotiations, and renewable projects which have so much importance for British business and society would be the equivalent of turkeys voting for Christmas.

It is now incumbent on the Conservative Government and all parties to get out there and get the job done on behalf of British industry so that stability is created to start the projects that are required to keep the lights on in Britain and Europe in the most cost effective and productive way. It requires a cross party approach that is above political posturing as a matter of urgency.

What is also very important is that industry itself puts its shoulder to the wheel and presents workable possibilities to politicians. In autumn 2015 DWF will organise with the European commission, in conjunction with the insurance sector and the banking sector, a conference in London to identify a way forward for some of these projects. The recommendations will be put to our politicians in Britain and elsewhere.

If we do not work in an integrated approach we will not maximise our true potential in

About the author

Michael Kingston is currently Lloyd's List's Global Maritime Lawyer of the Year for his influence on international regulation. In 2013-2014 DWF participated in DECC's Energy Market Review with the Insurance sector and banking sector helping to influence regulation. In May 2014 Michael presented on the Blue Economy at European Maritime Day in Bremen, and at the International Festival for Business in Liverpool in July 2014 the DWF Renewables Team organised a Conference on 'Assisting in the Bankability of Energy and Renewable Projects' with JLT brokers.

our maritime spatial approach which will compromise maritime safety in congested waters, and our seas will end up in a mess. We've come a long way through co-operation – the seas are being cleaned up slowly and fish stocks are starting to recover which demonstrates the benefit of co-operation. Let's now go further and complete the job together. ■

If you are interested in being involved in the autumn conference please contact Michael, or DWF's Head of their 50 strong renewables team, Andrew Symms.

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