

# ClientEarth's additional comments to the Offshore Renewable Energy Strategy Consultation

---

ClientEarth welcomes the initiative of the European Commission to develop an Offshore Renewable Energy Strategy in the context of the European Green Deal<sup>1</sup>.

Offshore renewable energy has an immense potential in Europe: over 250GW of offshore wind capacity are expected to be installed by 2050<sup>2</sup>. If successfully deployed, offshore renewable energy will play a crucial role in the decarbonisation of the European Union's energy systems, increasing security of supply, diversifying energy sources, and contributing to the 2030 European Union's and national climate and energy targets, as well as to the 2050 climate neutrality commitment.

The Offshore Renewable Energy Strategy (the “**Offshore Strategy**”) should identify key actions aiming at integrating offshore renewable energy generation capacity in the energy system in a cost-efficient way while **respecting high levels of environmental protection, public involvement and cooperation among Member States**.

To ensure its effectiveness and sustainability, the Offshore Strategy must be aligned with other strategies and initiatives adopted or currently being developed pursuant to the European Green Deal, including the Strategy for Energy System Integration<sup>3</sup>, the Hydrogen Strategy<sup>4</sup>, the Industry Strategy<sup>5</sup>, the Biodiversity Strategy<sup>6</sup> and the Circular Economy Action Plan<sup>7</sup>. Moreover, the Offshore Strategy must also ensure compliance and consistency with numerous rules, including those regulating energy systems, as well as the different EU and international rules affecting the uses of the marine space.

In the lines below we elaborate further on the need to respect environmental protection laws, and the necessity for increased cooperation among Member States and harmonization of some EU rules. For further information on other topics relevant for the preparation of the Offshore

---

<sup>1</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal, COM/2019/640 final.

<sup>2</sup> According to the Offshore Strategy Roadmap. The International Energy Agency has estimated that under a stated policies scenario, offshore wind capacity in the European Union will reach 127GW by 2040 (<https://www.iea.org/reports/offshore-wind-outlook-2019>).

<sup>3</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Powering a climate-neutral economy: an EU Strategy for Energy System Integration, COM/2020/299 final.

<sup>4</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, A Hydrogen Strategy for a Climate-neutral Europe, COM/2020/301/final.

<sup>5</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, A New Industrial Strategy for Europe, COM/2020/102 final.

<sup>6</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Biodiversity Strategy for 2030 Bringing nature back into our lives, COM/2020/380 final.

<sup>7</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, A new Circular Economy Action Plan For a cleaner and more competitive Europe, COM/2020/98 final.

Renewable Energy Strategy, we refer to the document we presented in the previous phase of this consultation, as comments to the Roadmap.

## SUSTAINABILITY AND ENVIRONMENTAL ASPECTS

The unprecedented scale and speed of the planned deployment of offshore renewable energy make identifying, assessing and mitigating environmental impacts a matter of crucial importance. The **Offshore Strategy must expressly recognise the relevance of environmental laws and establish that all derived legislative and non-legislative actions shall be in compliance with environmental laws.**

In particular, the environmental impacts of offshore renewable energy projects must be duly assessed in accordance with existing rules, including, among others: the Espoo Convention on environmental impact assessment in a transboundary context<sup>8</sup>, Directive 2001/42/EC on Strategic Environmental Assessments<sup>9</sup>, Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment<sup>10</sup>, the Habitats Directive 92/43/EEC<sup>11</sup>, and Directive 2009/147/EC on the conservation of wild birds<sup>12</sup>.

Additionally, the design, construction, operation and maintenance, decommission and recycling of offshore renewable energy facilities must be planned and executed in alignment with the Circular Economy Action Plan to ensure the overall sustainability of their whole lifecycle.

If these and other environmental laws are not duly respected, apart from the potential adverse environmental impacts, there is a high risk of litigation that would impede execution of projects, deter investors and tarnish the image of the industry.

In this respect, the **dissemination of information and the creation of sufficient opportunities for public consultation is instrumental for guaranteeing environmental protection** when developing and building offshore renewable energy facilities, for strengthening public acceptance, and for avoiding potential conflicts and litigation.

---

<sup>8</sup> Convention on Environmental Impact Assessment in a Transboundary Context, made in Spoo, Finland in 1991.

<sup>9</sup> Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (*OJ L 197, 21.7.2001*).

<sup>10</sup> Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (*OJ L 26, 28.1.2012*).

<sup>11</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (*OJ L 206, 22.7.1992*).

<sup>12</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (*OJ L 20, 26.1.2010*).

The Aarhus Convention<sup>13</sup>, to which the European Union and all Member States are parties, lays down basic rules on access to information, public participation and access to justice in environmental matters<sup>14</sup>.

The **Offshore Strategy must define key actions that ensure compliance with the obligations under the Aarhus Convention** to ensure that timely and meaningful public participation procedures and information dissemination take place in connection with any of its derived legislative or non-legislative actions. Especially, any procedures that may be designed for speeding up the deployment of offshore renewable energies must comply with the transparency and openness criteria laid down in the Aarhus convention and the Directives on public participation and public access to information.

## REGIONAL COOPERATION AND MARKET HARMONISATION

The fast deployment of offshore renewable energy can only be achieved through increased regional cooperation among Member States. Traditionally, offshore renewable energy facilities have been connected using direct lines between the facility site and the onshore grid. However, this approach will become increasingly uneconomical as the number of offshore renewable energy projects grows and they are developed further offshore.

Some alternatives have been already proposed, such as grouping offshore renewable energy facilities in hubs sharing transport lines, or creating “offshore hybrid assets”<sup>15</sup>, a type of infrastructure that combines transport of offshore energy to shore and interconnectors. In this context, **a coordinated development and operation of offshore electricity infrastructure can bring significant financial, technical, and environmental benefits** at EU level<sup>16</sup>.

Such coordinated development and operation of offshore electricity infrastructure may require higher harmonisation in some areas. Member States have experimented with different regulatory designs and hence the applicable framework differs considerably among them. This situation offers the opportunity to identify best practices and assess them as options for harmonising rules on areas such as the granting of grid access and connection to offshore

---

<sup>13</sup> Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, done at Aarhus, Denmark, on 25 June 1998.

<sup>14</sup> The application of the Aarhus convention in the European Union is implemented through Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ L 264, 25.9.2006) and has been further developed by Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC.

<sup>15</sup> Recital 66 to the Electricity Market Regulation 2019/943.

<sup>16</sup> Cole, S., et al., Study of the Benefits of a Meshed Offshore Grid in Northern Seas Region, July 2014. Accessed at: [https://ec.europa.eu/energy/sites/ener/files/documents/2014\\_nsog\\_report.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/2014_nsog_report.pdf)

facilities, the design of support schemes to offshore renewable energy<sup>17</sup>, or the regulation of offshore hybrid assets. The reinforcement of harmonisation in these and other areas will likely **require the revision of existing rules, including some of the network codes, or even the development of new, dedicated network codes** to guarantee clarity, legal certainty and better cooperation among the different stakeholders.

The **Offshore Strategy must include among its key actions legislative and non-legislative initiatives to ensure that regional cooperation is reinforced** through the assessment and revision of existing EU rules, the design and adoption of new rules and/or the preparation of guidelines.

---

<sup>17</sup> The joint support schemes proposed in Article 13 of the Renewable Energy Directive could be a good option to build on in this respect.

**Brussels**

60 Rue du Trône (3ème étage)  
Box 11, Ixelles, 1050 Bruxelles  
Belgique

**Berlin**

Albrechtstraße 22  
10117 Berlin  
Germany

**Warsaw**

ul. Mokotowska 33/35  
00-560 Warszawa  
Polska

**Beijing**

1950 Sunflower Tower  
No. 37 Maizidianjie  
Chaoyang District  
Beijing 100026  
China

**London**

Fieldworks  
274 Richmond Road  
Martello St. Entrance  
E8 3QW  
United Kingdom

**Madrid**

García de Paredes  
76 duplicado  
1º Dcha  
28010 Madrid  
Spain

ClientEarth is an environmental law charity, a company limited by guarantee, registered in England and Wales, company number 02863827, registered charity number 1053988, registered office 10 Queen Street Place, London EC4R 1BE, a registered international non-profit organisation in Belgium, ClientEarth AISBL, enterprise number 0714.925.038, a registered company in Germany, ClientEarth gGmbH, HRB 202487 HB, a registered non-profit organisation in Luxembourg, ClientEarth ASBL, registered number F11366, a registered foundation in Poland, Fundacja ClientEarth Poland, KRS 0000364218, NIP 701025 4208, a registered 501(c)(3) organisation in the US, ClientEarth US, EIN 81-0722756, a registered subsidiary in China, ClientEarth Beijing Representative Office, Registration No. G1110000MA0095H836.