

Regulatory Challenges for the Sustainable Development of Offshore Activities and Renewable Energy

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Whether in the field of hydrocarbons or of renewable energy, the marine environment is, and will be, one of the most important locations for energy development now, and in the future. Many nations count on hydrocarbons to supply most of their energy needs. However, offshore activities may cause economic and environmental damage. Harmful impacts on the marine environment, coastal economy and climate are often deleterious, such as the *Deepwater Horizon* disaster in the Gulf of Mexico in April 2010. Due to environmental impacts of fossil fuels and the high cost of oil, the rush in the 21st century is towards offshore renewable technologies.

The development of renewable sources of energy as a priority is now based on several purposes, including, reduction of the domestic demand for energy, reduction of greenhouse gas emissions, creation of new jobs, and replacement of conventional fuels with renewable sources of energy. In the wake of the *Deepwater Horizon* disaster, the European Commission expressed the view that there can be little doubt to confront the complicated issues and challenges relating to the development of offshore energy. Such issues, as has been recognized by the International Maritime Organization, include the need to devise and harmonize a framework set of rules and principles essential for the operation of offshore installations and facilities. The pressure on hydrocarbons, together with binding targets to reduce CO₂ emissions, based on global and European climate change programmes mean that potentially huge renewable energy projects are planned for the offshore areas. These developments, as well as violations of a number of global, regional and national laws and regulations relating to the protection of the marine environment and its resources, give rise to significant legal, regulatory and liability challenges that will be the focus of this paper. There is no global international treaty that addresses claims for compensation and liability in terms of offshore oil and gas exploration. The first United Nations Convention on the Law of the Sea (UNCLOS I) in 1958 adopted four conventions, only two of which were relevant to this type of marine pollution, namely, the High Seas Convention and the Continental Shelf Convention. At the regional level, several treaties address the issue of pollution arising out of offshore operations, including the 1994 Mediterranean Protocol Concerning the Protection of the Mediterranean Sea, the 1992 Black Sea Convention, and the 1992 OSPAR Convention. As a result of recent high profile incidents, pollution of the marine environment is very high on the political agenda of the EU. On February 21, 2013, a provisional deal on proposed legislation for the safety of offshore oil and gas operations was struck by the

Members of the European Parliament and Council negotiators. Ivo Belet, who led the negotiations said that “Europe learned its lessons from the Deepwater Horizon catastrophe and wants to reduce the risks of offshore oil and gas drilling to a minimum. Especially now that several member states are exploring new drilling operations, we need an efficient legislative framework. The previous directive is nearly 20 years old and does not guarantee the safety of offshore drilling operations in an adequate manner”. According to the Communication “Towards A Strategy To Protect And Conserve The Marine Environment”, there are substantial knowledge gaps that inhibit the development of a strategy to promote sustainable use of the seas and conserve marine ecosystems. Taking into consideration the lack of effective legal terminology, definition and structure for offshore energy, it is necessary to develop a comprehensive legal framework for regulation of offshore hydrocarbon and renewable energy, including applicable rules and principles of sustainable development. Effective protection of the marine environment and sustainable use of its resources require greater knowledge and understanding of all aspects of the activities carried out within coastal and marine areas. With the purposes of achieving both sustainability and growth, this paper attempts to inform the substratum of rights and obligations, as well as legal foundations of responsibility and/or liability of private actors and States, for further progressive development of international, regional and national laws and regulations. The purpose of the paper is to raise awareness among policymakers and the business community of the existing challenges, the potential for conflicts, as well as a compromise between protection and development, between the interests of the coastal State and the interests of private actors, and between the rights and obligations of the coastal State and the interests of other maritime nations. It should be mentioned that despite the important role of offshore hydrocarbons and renewable energy for Ireland, according to Strategic Environmental Assessment (SEA) of the Offshore Renewable Energy Development Plan (OREDPA) in Ireland, currently there is no integrated regulatory framework for marine or coastal management and protection. Therefore, it is essential to take appropriate and necessary steps towards the development of a regulatory and liability framework for present and future exploitation of energy sources in the offshore, whereby Ireland would be helped to meet its offshore renewable and hydrocarbon energy targets, without significant harmful effects on the marine environment or coastal areas.