

# Offshore Wind and Dispute Boards

Introduction

Giorgiana Tecuci

Dispute Resolution Board Foundation. *Moving projects forward* since 1996.



# Offshore Wind and Dispute Boards

Cost Benefit Analysis

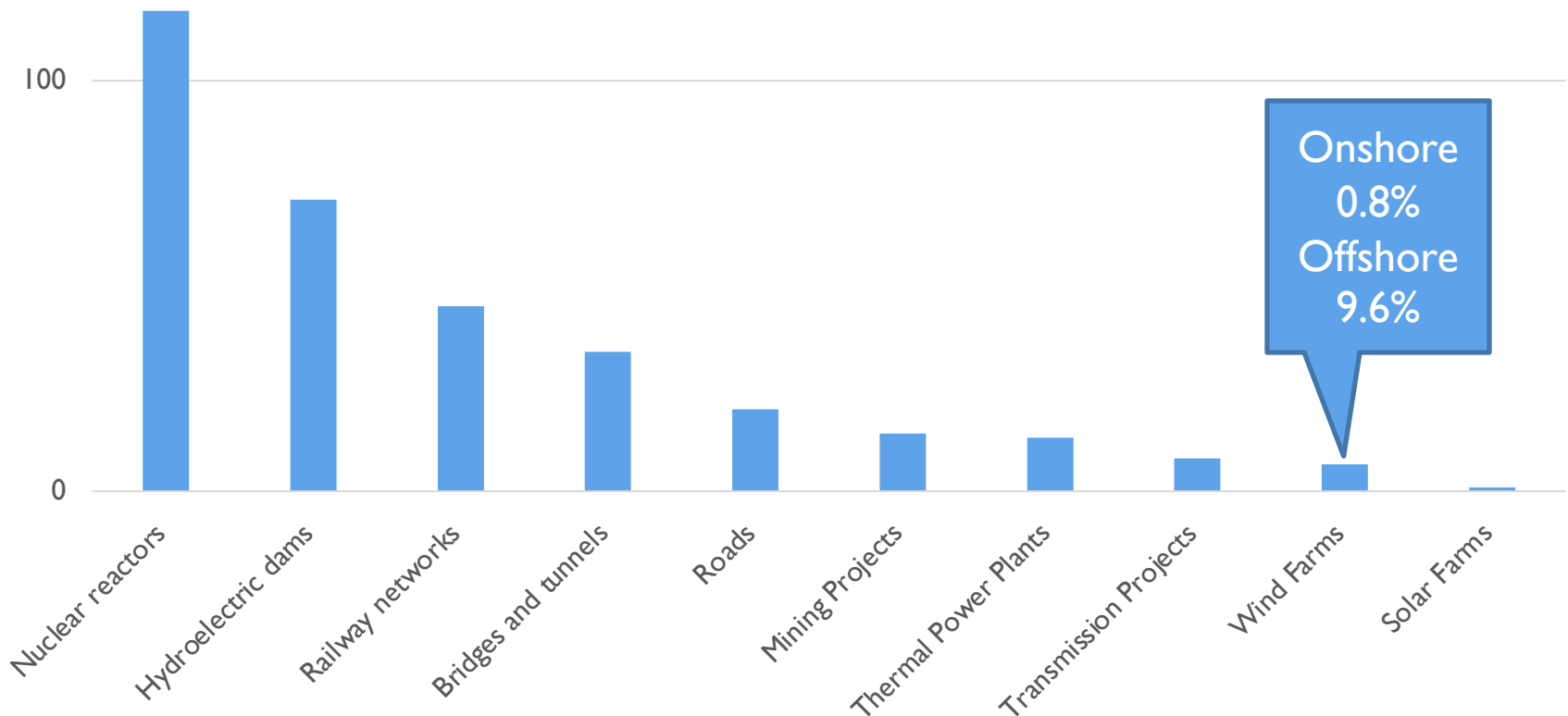
Nic Rigby

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# Better than the Rest!

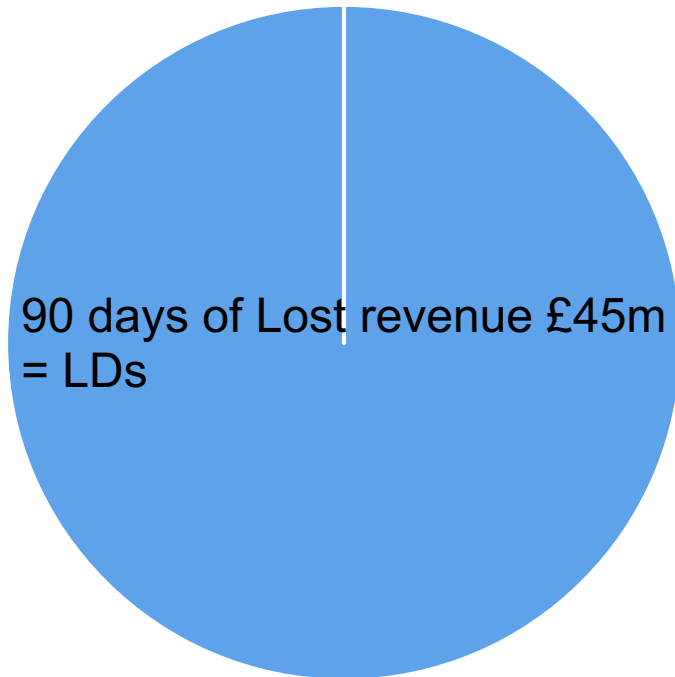
Mean Cost Escalation (%)



Sovacool, BK, D Nugent, and A Gilbert. "Construction Cost Overruns and Electricity Infrastructure: An Unavoidable Risk?" Electricity Journal 27(4) (May, 2014), pp. 112-120.

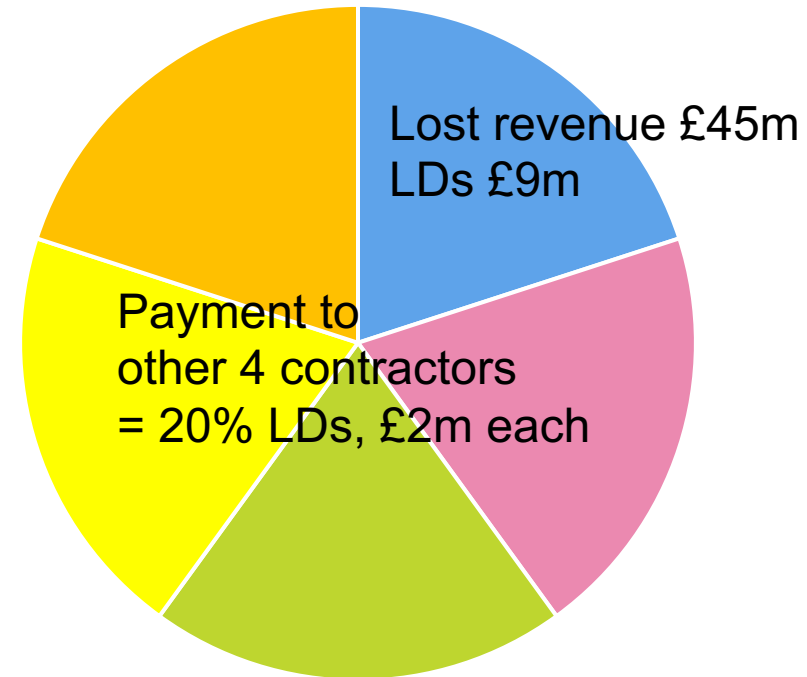
# High Cost of Delays

Single EPC



- £45m  
£45m  
£0  
Nil

Multiple contract

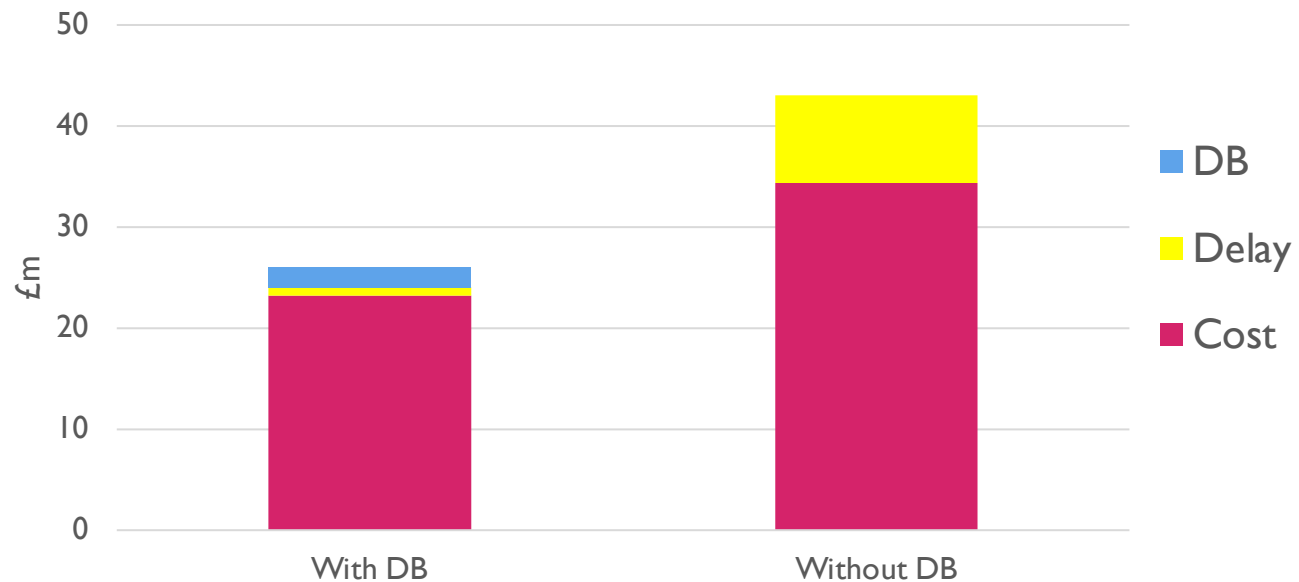


Lost Income  
Cost Reduction/LDs  
Payments to other contractors  
Impact

- £45m  
£9m  
- £7m  
- £43m

# Cost £1.5m – Benefit £17m

Florida Dept of Transport	With Dispute Boards	Without Dispute Boards
% with delay	1.8%	19.2
% with cost overrun	12.1%	17.9%



# Thank You...

If you have any questions, you know what to do!

# Offshore Wind and Dispute Boards

A DB Perspective

Leo Grutters

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# A DB Perspective

DB role is:

- ➔ to assist the Parties in bringing a project to the desired contractual/commercial outcome by:
  - ➔ Minimising (read: avoiding) costly disputes,
  - ➔ Or, if unavoidable, provide a cost and time-effective resolution (at least unless and until reversed through either amicable settlement or a subsequent arbitral award).



# A DB Perspective

## DB Qualities and Requirements:

- Social and Communicative Skills,
- Knowledge & Understanding of the Project's Technical Demands,
- Ability to Encourage Mutual Trust and Harmonious Relationships

A DB Process is a Team Effort

# A DB Perspective

## DB Tools:

- ➔ Own Experience and Knowledge,
- ➔ BUT always within the boundaries of:
  - ➔ Documents Forming the Contractual Agreements Between the Parties, and
  - ➔ The Law

# A DB Perspective

## DB Challenges in Offshore Projects

- ➔ Currently no industry specific contractual mechanisms providing for an effective DB process,
- ➔ The Industry introduces new/additional stakeholders and/or influencers not catered for in standard forms of contract like e.g., FIDIC,
- ➔ Standard forms of Contract are not drafted specifically for heavily equipment loaded (e.g., vessels, cranes, special purpose equipment) projects,
- ➔ In addition to the Law underpinning the Contract there may be Maritime Law to deal with,

# A DB Perspective

## DB Challenges in Offshore Projects

- ➔ Often extreme impact of unforeseen or unpredictable issues (e.g., UXOs or the Weather) that may negatively affect the risk balance,
- ➔ Standard contractual terminology is often insufficient for the specific offshore industry (e.g., “Site”).

# Thank You...

If you have any questions, you know what to do!



# Offshore Wind and Dispute Boards

DRBF/WFO online event

Tobias Voigt

February 10th, 2022



WORLD FORUM  
OFFSHORE WIND

**OFFSHORE DISPUTE RESOLUTION COMMITTEE**

A high-angle, top-down view of a yellow offshore oil rig platform. The platform features a complex network of yellow pipes and large, funnel-shaped structures on the left side. A yellow metal walkway with a grid pattern runs along the right side of the platform. The rig is situated in the middle of a deep blue ocean with visible whitecaps. A blue diagonal banner is overlaid on the left side of the image, containing the text 'Part 1: WFO ODRC'.

## Part 1: WFO ODRC

# WFO OBJECTIVES



WORLD FORUM  
OFFSHORE WIND

OFFSHORE DISPUTE RESOLUTION COMMITTEE

The WFO has the task of actively promoting the alternative Dispute Resolution within the worldwide expansion of wind energy at sea (offshore wind energy)

Continuously promoting the ADR mechanism within the offshore wind community and among the worldwide offshore industry stakeholders

Continuously observing the market worldwide

Offering a package of industry specific Alternative Dispute Resolution tools adapted to the imperatives and requirements of the offshore wind market

Advising on worldwide industry-relevant acts, ordinances, guidelines, as well as other regulations





# WHY?

We are lacking qualified institutional support for alternative dispute resolution in offshore wind

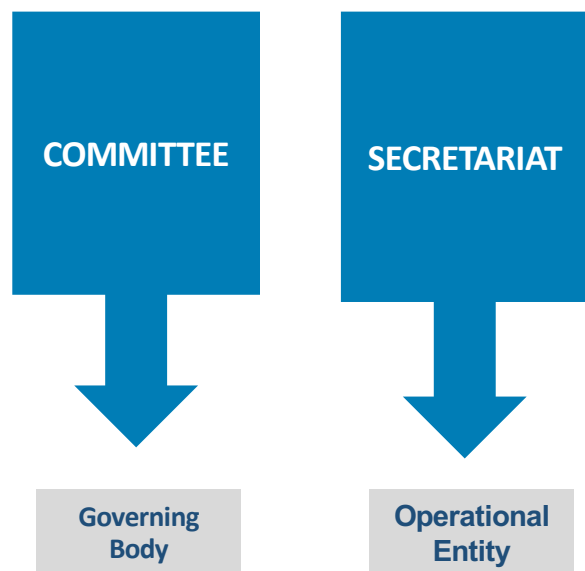
Procedural know-how in alternative dispute resolution combined with offshore wind know-how, that would help us



We would like to have arbitration or adjudication familiar with the needs of offshore wind

Conventional dispute institutions seem to struggle with offshore wind peculiarities

# WFO ADR STRUCTURE



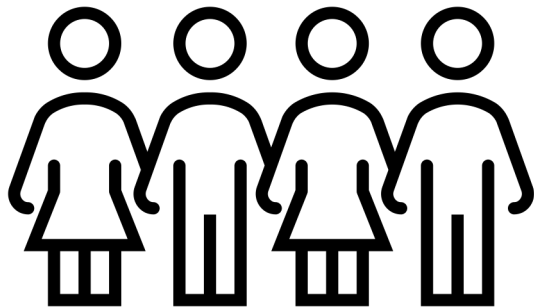
## COMMITTEE

- ❖ Chairmen
- ❖ Sub-Committees

## SECRETARIAT

- ❖ Secretary General
- ❖ Deputy Secretary General
- ❖ Managing Secretary

WFO Offshore  
Dispute Resolution  
Committee



Committee gathering  
once every three  
months

## COMMITTEE (ODRC)

ODRC is an entity of WFO whose purpose is to promote and develop alternative dispute resolution in Offshore Wind field and to establish Alternative Dispute Resolution Rules adapted to it.

The Committee receives, organizes and manages the input for the dispute resolution rules and facilitates their development and contributes to the promotion of the general work of the WFO.

# SCHEME



Expert Proceedings

Adjudication

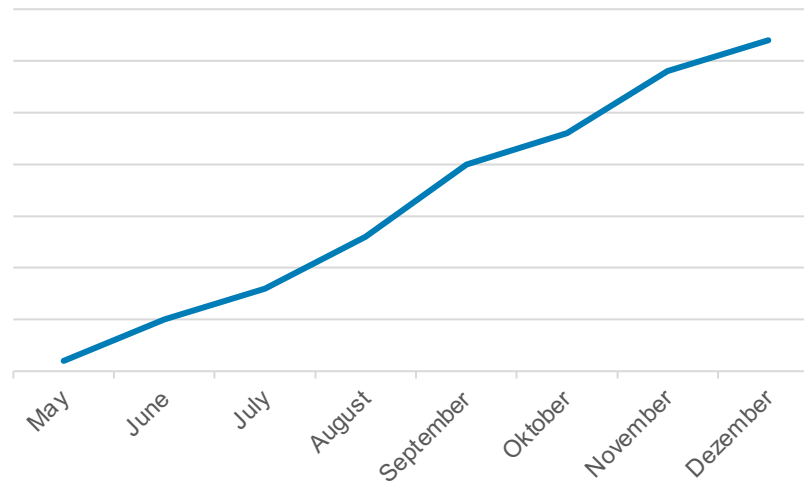
Mediation



An aerial photograph of an offshore oil platform. The platform features prominent yellow structures, including several large, funnel-like components and a central vertical column. A yellow metal walkway with a grid pattern extends from the platform towards the right. The surrounding ocean is a deep blue with visible whitecaps. A blue diagonal banner is overlaid on the left side of the image, containing the text 'Part 2: ODRC Expert List' in white.

## Part 2: ODRC Expert List

Applications received



## 1. Expert Applications

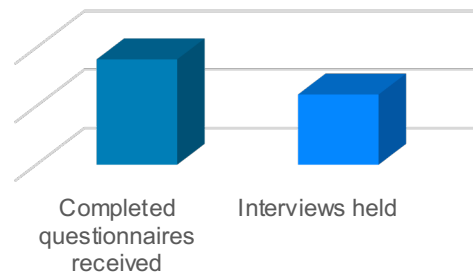


## 2. Skills and reach

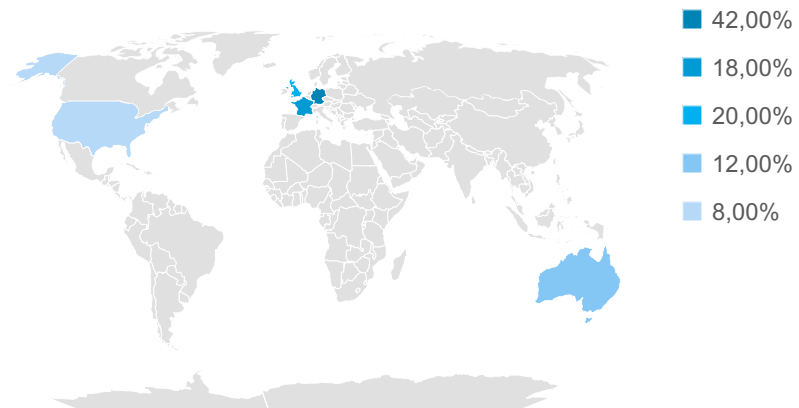
### Skills covered already:

- Soil/Geotechnical
- Marine
- WTGs
- Foundations
- Sub-stations
- Cables
- Vessels
- Coating
- Loads
- Electrical/Mechanical Engineering
- Harbor Logistics
- SCADA
- Software
- Schedule analysis
- Commercial
- Legal

### Status



### Regional Distribution of Experts



Unterstützt von Bing



## What is the mechanism to be admitted to the list?

Selection criteria:

1. Expertise
2. Professional skills (incl. social and communication)
3. Experience in ADR

Based on questionnaire data, 3 references and interview

Every selection criteria can score up to 5 points for best impression

The point average of all rankings is calculated

- A candidate requires for admittance to the list:
  - an average of 3 or more points in category 1. and 2. and
  - 2 or more points in category 3 and
  - 10 or more points in total

Regarding the experience in ADR we see it also as the task of the upcoming sub-committee for education and training to provide help in improvement. In the first place we are looking now for offshore related skills.

### 3. Expert evaluation procedure

Thank you very much!



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WORLD FORUM  
OFFSHORE WIND

**OFFSHORE DISPUTE RESOLUTION COMMITTEE**



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**Head of Legal and Contract**  
**Management**

10 February 2022

## **DBs in the Sustainability Sector - Offshore Wind and Dispute Boards**

**– The inhouse counsel perspective –**

# DBs - The inhouse counsel perspective

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## 1. Dispute Planning

- Standing DBs are beneficial despite the costs – at least for the main contracts
- The DB should be in place already at contract signing
- There is still a lack of duly qualified and experienced adjudicators
- DBs should have three members with interdisciplinary background (engineers, lawyers)

# DBs - The inhouse counsel perspective

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## 2. Experiences

- Disputes in offshore wind projects are quite complex due to the multi-contracting approach
- Disputes should be referred to a DB as early as possible
- Oral hearings are generally necessary in order to clarify questions
- Deadlines should be ambitious but should not lead to less persuasive decisions
- Acceptance of the DB decision by the parties is important

# DBs - The inhouse counsel perspective

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## 3. Summary

- The experiences with standing DBs are good and it's worth to invest both time and money
- You need to have a custom-fit and detailed dispute resolution mechanism in your contracts

# Thank you!

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# Offshore Wind and Dispute Boards

Project Director Perspective

Toby Edmonds

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