Facing the challenge of the safety of offshore oil and gas activities

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PURPOSE: to respond to the challenge of the safety of offshore oil and gas activities.

BACKGROUND: the explosion of the Deepwater Horizon drilling rig in the Gulf of Mexico on 20 April 2010 and the subsequent massive leak from the oil well on the sea bottom caused significant environmental, economic and social damage

The scale and gravity of the Deepwater Horizon accident prompted the Commission to launch an urgent assessment of safety in offshore oil, as well as gas, exploration and production activities in European waters.

The review has shown that offshore oil and gas activities in the EU are partly governed by a heterogeneous health, safety and environmental regime. Such a fragmented regime may not provide an adequate response for the risks posed by the evolution of offshore oil and gas industrial activities. It leaves areas of legal uncertainty with regard to companies' obligations and responsibilities and does not allow using to the full extent opportunities offered by EU agencies and instruments.

While some Member States' regulatory regimes feature high levels of accident prevention through strict health, safety and environment protection requirements, further action is needed to ensure the spread of such best practices throughout the EU by a clear state-of-the-art framework at EU level, clarifying EU legislation and filling identified gaps.

CONTENT: the review of applicable European legislation and consultations with industry and Member States' competent authorities, five main areas where action is needed to maintain the safety and environmental credentials of the EU were identified:

- thorough licensing procedures,
- improved controls by public authorities,
- addressing gaps in applicable legislation,
- reinforced EU disaster response, and
- international cooperation to promote offshore safety and response capabilities worldwide.

This communication presents the first steps towards the achievement of these objectives:

1) Ensuring “state-of the-art” practices across Europe: the Commission proposes to work towards an **overhauled and more coherent legal framework** for offshore exploration and production activities in Europe which ensures EU-wide application of state-of-the-art practices. The risks at stake, the need for legal certainty and the principles of "better regulation" speak in favour of a single new piece of specific legislation for offshore oil and gas activities, possibly supported by soft legal measures (guidelines). In this context,

- **key requirements for the licensing** of hydrocarbon exploration and production should be defined at EU level. The Commission will make proposals to that effect in 2011 supported by an impact assessment;
- the Commission will examine ways of **strengthening environmental legislation** with regard to combating pollution, inspections, accident prevention and the management of offshore installations;
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the **Directive on Environmental Liability** must ensure without any ambiguity that offshore operators are under strict liability, not only for damage caused to protected species, natural habitats and to the waters covered by the Water Framework Directive, but also to all marine areas under the jurisdiction of Member States;
- the industry should work, where appropriate, in partnership with public authorities, on **new emergency response tools** which will be deployable and usable on equipment and sites in all marine environments in Europe;
- **industry oversight by public authorities** should build on best administrative practices already available in Europe and can be reinforced by actions at EU level. For example, the inclusion of inspection tasks similar to those performed in maritime transport in the activities of the European Maritime Safety Agency (EMSA) could be usefully evaluated.

2) Application of the precautionary principle: until complete investigation results into the causes of the Deepwater Horizon accident are available, industry efforts in enhancing the safety of operations bring tangible results, and the campaign to duly reinforce the regulatory framework across Europe has run its course, particular restraint and additional caution should be applied both to ongoing exploration or production operations and to new planning and permitting procedures.

3) Reinforcing the EU's intervention capacity for offshore accidents: in case of a serious accident off any Member State's shores, its response teams must be able to call on all available capacities at hand, including those of the industry and other Member States. In 2010, the Commission will present a Communication with the objective of bringing the wealth of expertise and resources - available at local, national and the EU levels - together into a **strengthened EU disaster response system**.

The Commission will seek ways to **enhance the availability of emergency response capacities**, e.g. by requiring that emergency response equipment be available in each relevant region in the EU, working in cooperation with the industry and Member States and building on existing instruments of the EU Civil Protection Mechanism and EMSA.

4) New partnerships for offshore safety also outside European waters:

- the Commission will **intensify dialogues with EU neighbours** on offshore safety, aiming at new common initiatives establishing emergency information channels, information sharing on exploration and production, promotion of high levels of safety and prevention, and joint enforcement measures such as inspections of installations;
- industry and Member States will be invited to adopt transparent and binding obligations on **companies with headquarters in the EU** to follow European standards of safety and accident prevention in all their operations worldwide;
- existing energy partnerships and dialogues with **EU's international partners** will be leveraged to initiate an EU-driven global initiative for offshore safety and to agree on general terms of reference of such global action.

The Commission invites the European Parliament and the Council to support the course of action outlined in this Communication. It will hold further consultations with national regulators and other stakeholders on the scope of the proposed initiatives in view of tabling proposals for concrete legislative and/or non-legislative measures before summer 2011.