

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

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The European Parliament adopted by 602 votes to 64 with 13 abstentions a resolution on facing the challenges of the safety of offshore oil and gas activities, in response to the Commission Communication on the subject.

It should be noted that an alternative resolution tabled by the Greens/EFA group was rejected in plenary.

Regulatory approach: whilst acknowledging that issuing licences and other authorisations for the exploration and exploitation of hydrocarbon resources is a Member State prerogative, Parliament stresses that **licensing procedures must conform to certain common EU criteria** and highlights the fact that Member States should apply the **precautionary principle** when issuing authorisation for the exploration and exploitation of hydrocarbon resources. Members insists, therefore, that the introduction of an EU-wide moratorium on all new deep-sea oil drilling in EU waters would be a disproportionate reaction to the need to secure high safety standards across the EU.

Parliament stresses that all Member States' legislative and regulatory frameworks should adopt a robust regime in line with the current best practice where **all drilling proposals are accompanied by a safety case, which must be approved before operations can begin**, including independent third-party verification procedures and reviews at regular and appropriate intervals by independent experts (at least every five years). It recommends that EMSA be designated as an independent third party to increase the level of coordination in the event of an accident.

The resolution goes on to recommend :

- an extension of the Environmental Impact Assessment (EIA) Directive to cover all offshore projects phases (exploratory and operational) and specific requirements for EIAs in the case of deep water, complex wells;
- examining the current regulatory framework regarding the decommissioning of existing drilling infrastructure, and to clarify, if necessary by way of legislation, the responsibility of operators;
- considering the case for extending the sound principles contained within its legislation for the control of onshore hazards (SEVESO II and III) to legislation aimed at offshore oil and gas activities;
- add offshore oil and gas activities as part of the first review on the scope of the Directive to be carried out by 31 December 2011.

Members welcome the fact that the Commission intends to review Directive 92/91/EEC, and calls for an approach based on common standards, in order to avoid **disparities in treatment between workers within the same company**, depending on their place of work. They call, furthermore, for a transparent, efficient, consistent set of rules applying to all employees working in the offshore sector.

The resolution stresses the importance of **regular, varied and rigorous inspections** carried out by independent, trained specialists acquainted with local conditions. It emphasises the need for systems providing for effective checks by inspection bodies, and for the possibility of applying sanctions in the event of violations of worker health and safety.

Prevention, exchange of information and best-practice: Members believe that fora akin to the NSOAF in the North Sea should be established for Member States around the Mediterranean, Baltic and Black Seas to oversee the adoption and enforcement of minimum standards. In this regard they welcome the Commission's initiative to establish the Mediterranean Offshore Authorities Forum (MOAF) and encourage the participation of non-EU countries. They also welcome the Commission's initiative to establish joint EU/NSOAF meetings as an opportunity to exchange best practices across the EU.

Parliament states that a **preventive health and safety culture needs to be developed** by engaging employers and trade unions and securing the active participation of workers, in particular by consulting them, involving them in devising and applying safety procedures and informing them of the potential risk involved. It encourages therefore regular training programmes for all permanent and contract employees as well as employers. It calls also for training requirements to be established in the EU Member States for workers, including contractors and subcontractors, involved in high-risk tasks, and for them to be harmonised.

National competent authorities are asked to **collate, share and publicise information from incident-reporting**, with due regard for commercial sensitivities. This information should be shared as promptly as is feasible after an incident has occurred and include personnel incidents, machinery failure, hydrocarbon releases and other incidents of concern.

Licensing and consent to drill: Parliament recommends that **licensing and health and safety functions should be separated** in all Member States. It considers that oil and gas operators must be required, in the licensing procedure and throughout the operational period and at all phases of offshore projects, to demonstrate that they have sufficient financial capacity in place to secure remediation in relation to environmental damage caused by the specific activities they carry out – whether through mandatory industry mutual schemes, through mandatory insurance, or through a mixed scheme which guarantees financial security.

Contingency planning: the resolution advocates the use of site-specific contingency plans that identify hazards, assess potential pollution sources and effects, outline a response strategy and outline drilling plans for potential relief wells. For complex wells, or challenging drill conditions, the contingency plan should be assessed, consulted and approved contemporaneously with other regulatory approval processes (e.g. those related to environmental impacts or well design). in all cases, **operations must not commence until a contingency plan has been approved** by the Member State in which they are to be conducted.

Members suggest that available equipment for capping all potential spills should be an essential part of contingency plans and that such equipment should be available in proximity to installations to allow for timely deployment in the event of a major accident. They take the view that the use of the EMSA's response capabilities should be explicitly extended to cover prevention and response to pollution originating from offshore oil and gas exploration and production activities. They urge companies to continue to set aside funds for research and development relating to new prevention and accident remediation technologies.

Disaster response: Parliament recognises that **industry bears the primary responsibility** for reacting to disasters. It welcomes joint industry initiatives to develop, mobilise and deploy resources to counter oil spills. It stresses that the public sector has an important role in the regulation, safety and coordination of a disaster response. The resolution recommends that more emphasis should be placed on **systematic training**, particularly on the practical application of disaster response equipment. It calls on Member States and the Commission to ensure that the licensing system includes **protection financing instruments** apt to ensure that in the event of major incidents the necessary financial resources can be urgently mobilised to compensate for the economic, social and environmental losses occasioned by an oil spill or gas leak.

Liability: Members stress that while in principle financial guarantees can be provided through either insurance or industry mutualisation, it is important to ensure that operators demonstrate that **financial guarantees** are in place to cover the full cost of clean-up and compensation in the case of a major disaster, and that risks and **liabilities are not externalised** to smaller companies that are more likely to declare insolvency in the event of an accident. They recognise the merit of communal funds such as OPOL in the North Sea and call for such funds to be established in each EU sea area. Parliament calls for membership to be mandatory for operators and for legal certainty to be ensured so as to provide a safety-net mechanism designed to reassure the Member States, the maritime sector, in particular fishermen, and taxpayers.

It considers that the scope of the **Environmental Liability Directive should be extended** so that the "polluter pays" principle and **strict liability** apply to all damage caused to marine waters and biodiversity, so that oil and gas companies can be held accountable for any and all environmental damage they cause, and can assume full liability.

The Commission is asked to examine whether a compensation fund for oil disasters can be created within the framework of environmental liability, which would contain binding financial security provisions.

The resolution also recommends that Member States consider adopting and strengthening deterrents against negligence and non-compliance such as fines, withdrawal of licences, and criminal liability for employees.

Relationship with third countries: Parliament urges the industry to employ at least EU environmental and safety standards or their equivalent wherever in the world they are operating. It asks the Commission and Member States to continue to contribute to offshore initiatives within the framework of the G20, while taking into consideration the United Nations Convention on the Law of the Sea (UNCLOS).

The Commission is also asked to: (i) engage actively with other states bordering EU sea areas to ensure that regulatory frameworks and supervision provide equally high levels of safety; (ii) launch a debate on regulations in the areas of liability for environmental damage and financial guarantees that would also include third countries; (iii) to work with partners and neighbours to achieve a special regime for any operations in the Arctic.