

# Safety of offshore oil and gas operations

2011/0309(COD) - 27/10/2011 - Legislative proposal

**PURPOSE:** to reduce the occurrence of major accidents related to offshore oil and gas activities and to limit their consequences.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**BACKGROUND:** the magnitude and characteristics of accidents affecting offshore oil and gas operations (for example, *Deepwater Horizon* in the US in 2010, *Montara* in Australia in 2009, *Usumacinta* in Mexico in 2007) which have been reported worldwide, including the Union, demand action.

Studies, stakeholder consultations and risk analyses conducted since 2010 have identified the **main problems for the Union** as:

- The risk of a major offshore oil or gas accident occurring in Union waters is significant and the **existing fragmented legislation** and diverse regulatory and industry practices do not provide for all achievable reductions in the risks throughout the Union.
- The existing regulatory framework and operating arrangements do not provide for the most **effective emergency response** to accidents wherever they occur in Union waters, and the **liabilities** for clean-up and conventional damages are not fully clear.

Based on frequency analysis of industry performance in Europe to date and on documented costs of past accidents, the estimated average annual economic **losses** and damage from offshore oil and gas accidents in the Union range from **EUR 205 million to EUR 915 million**. This range is used as the empirical basis of baseline risk in the impact assessment. It is estimated that the benefits accruing to the Union and Member States significantly outweigh the costs of introducing higher standards.

According to the Commission, the control of major hazard risks in the offshore industry needs to be raised to **consistently high standards throughout the Union**. **Four specific objectives** need to be pursued:

- 1) Ensure a consistent use of best practices for major hazards control by oil and gas industry offshore operations potentially affecting Union waters or shores;
- 2) Implement best regulatory practices in all European jurisdictions with offshore oil and gas activities;
- 3) Strengthen Union's preparedness and response capacity to deal with emergencies potentially affecting Union citizens, economy or environment;
- 4) Improve and clarify existing Union liability and compensation provisions.

**IMPACT ASSESSMENT:** in addition to the reference option which would preserve the status quo (Option 0), **four strategic options** were evaluated:

- **Option 1** ("North Sea basic") is the basic level for meaningful Union intervention. It introduces in Union law the Major Hazards Report (MHR) based upon the safety and health document required by Directive 92/91/EC but goes further in requiring the regulator to be satisfied with it prior to

starting operations. An inspections and penalties regime would be required to underpin the measures described in the MHR. **Option 1+** ("North Sea +") goes further by introducing soft law guidelines for tightening consideration of the technical capacity of applicants for offshore oil and gas licenses;

- **Option 2** ("Union Best practice") develops further the reforms of option 1+ in a comprehensive package. Recognised global best practice in major hazard risk control would be mandated, and environmental risk assessment would be incorporated into the MHR. Also, best regulatory practice and required organisational standards would be introduced in arrangements for national competent authorities;
- **Option 3** ("EU Agency") further reinforces the impact of Option 2 by introducing an Union agency to institutionalise and thereby consolidate the reforms achieved by option 2. It would undertake inspections and investigations, monitor and enforce consistency in performance, develop intervention capacity and assist capacity building in adjacent non Union countries.

The **preferred policy option** is Option 2, i.e. a comprehensive offshore reform raising throughout Union, through new law, the level of risk management and emergency preparedness in the offshore industry. The cost of the proposed measures (**EUR 134 – 140 million/year**) is modest when compared with the risk reduction that they would guarantee (EUR 103-455 million/year).

**LEGAL BASIS:** **Article 192** of the TFEU (Environment) for its environmental protection purposes and **Article 194** (Energy) for minimising adverse effects on Union security of energy supply and the functioning of the internal energy market.

**CONTENT:** the proposed regulation creates duties for operators, Member States and the Commission as follows.

#### **Operator:**

- the Operator is to organise his activities around a best practice model; prepare a major hazards report (MHR) and to submit this to the competent authority for assessment. In addition, the Operator is to submit a notification for each well operation to the regulator;
- for both MHR's and well notifications, independent verification of the safety critical elements is required;
- Operators will prepare internal emergency response plans; promote interoperability and compatibility of response assets and report incidents and other specified information to the relevant Member State in a standard format;
- Union-based major companies would commit to demonstrating Union offshore safety standards wherever they work overseas.

**Member States:** Member States licensing authorities would assess in an appropriate manner the potential safety and environmental performance (and financial capacity to deal with safety failures) of applicants when considering awards for exploration or production licenses.

#### **Member States:**

- would establish competent authorities for supervision of safety, environmental protection and emergency preparedness and introduce robust standards for inspection and investigation, underpinned with appropriate penalties for breaches of duty by operators;
- will make information routinely available concerning their offshore sectors, and report all major incidents and lessons learned to the Commission;
- will prepare external emergency response plans, in collaboration with adjacent Member States.

Measures will be taken to ensure interoperability of expertise and physical assets to support cross Union intervention including by EMSA. Member States and the industry will prepare and periodically test emergency response plans.

**Commission:** the Commission is to establish an EU Offshore Authorities Group with representatives from the competent authorities responsible for offshore oil and gas activities in Union Member States. The Commission is to amend Environmental Liability Directive (2004/35/EC) within the regulation.

**BUDGETARY IMPACT:** the budgetary implication of the proposal is approx **EUR 2.5 million in the period 2013-2016**, including compensations for committee participation.

**DELEGATED ACTS:** the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.