

BIMCO appreciates the possibility to provide its comments to the European Commission's public consultation regarding the improvement of offshore safety, health and environment in Europe, running until 11 May 2011. BIMCO has been included in the Commission's Register of Interest Representatives since May 2010 with identification number 31226213614-86.

BIMCO notes that the aim of the consultation appears to be exclusively focused on offshore activities. In its capacity as an independent international shipping association, BIMCO therefore does not find it relevant to comment on all 18 questions contained in the consultation but will limit its comments to questions 8 and 10, which would nonetheless appear to have potential implications for shipping. BIMCO respectfully considers that the focus on offshore activities is due to the facts that the consultation is a consequence of recent years' very serious offshore oil spill incidents and that the shipping sector is already covered by a robust and well-functioning maritime safety framework both in the EU as well as globally, via the international liability and compensation regime in place applying to marine pollution originating from ships.

With respect to question 8, regarding the possibility of extending Directive 2004/35/EC up to 200 or 370 nautical miles, BIMCO notes article 4, paragraph 2, of the said Directive which states that it does not apply to environmental damage arising from incidents falling within the scope of the international conventions on liability and compensation for pollution from ships, including the 1992 Civil Liability Convention, the 1992 Fund Convention, the 2001 Bunkers Convention and the 1996 HNS Convention. This exception should be seen in the light of the already existing international regime, which adequately covers pollution damage arising from ships. Further, BIMCO notes article 4, paragraph 3, of the Directive confirming operators' right to limit liability in accordance with the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976, as amended. BIMCO believes that any decision to extend the geographical reach of Directive 2004/35/EC should not affect these exceptions, as this would otherwise cause serious disruption to the international regime and create legal uncertainty.

As regards question 10, concerning the costs for remedying and compensating for environmental damage, BIMCO assumes that the reference to oil spills relates more specifically to oil spills originating from offshore activities, in accordance with the overall scope of the consultation. If this is not the case, it should be recalled that a well-functioning international compensation regime is in place via the establishment of the International Oil Pollution Compensation Funds. Thus, the maximum amount payable by the 2005 Supplementary Fund for one incident is approximately USD 1,185.8 million. BIMCO finds it relevant in this respect to point to the fundamental difference between oil spills originating from offshore activities as compared to spills originating from ships, both in terms of potential damage and costs related thereto as well as in terms of technical difficulties with respect to limiting the impact of a spill. As opposed to offshore oil spills, a spill originating from a ship will have a pre-defined quantity of oil on board, either in bulk or in bunkers, and will thus not be in a position to cause an oil spill of the magnitude that was seen for example in the Deepwater Horizon incident. The international regime applicable to shipping must be considered to sufficiently address the need for compensation means to be available in case of an incident.

We stand ready and willing to provide further input or clarifications should this be necessary.

Best regards

Christian Hoppe  
Senior Legal Affairs Officer  
E-mail: [cho@bimco.org](mailto:cho@bimco.org)  
Tel.: +45 4436 6800  
Direct: +45 4436 6872  
Mobile: +45 6133 7750  
Web: [www.bimco.org](http://www.bimco.org)