

PUBLIC CONSULTATION
Improving offshore safety, health and environment in Europe

Questions for the public

Please use this response form for your replies. Thank you for respecting the maximum length for the replies as indicated after each question. This will ensure that your responses are taken into account in their entirety.

Please send the filled response form to the [ENER-CONSULT-OFFSHORE mailbox](#)

Authorisations

As described in the consultation document, the competent authorities of the EU Member States define the concrete regulatory requirements and conditions for starting, pursuing and terminating offshore activities within the broader boundaries of EU legislation. These authorities govern also the authorisations for offshore activities in a given area (both in terms of access to exploit a certain geographical area, and in terms of approval to perform concrete activities), regulatory requirements on ongoing activities and closing of operations.

1. Which changes, if any, would you recommend to the authorisation conditions for offshore prospection or exploration or production activities? Please specify which authorisations your recommendations concern (all authorisations, those in a specific country, those authorising only a certain stage(s) such as prospection, exploration or production etc)
(Please limit your response to maximum 1000 words)

The safety aspects of the United Kingdom's authorisation regime, as overseen by the Health and Safety Executive, are believed to be robust and well developed. A goal setting, rather than prescriptive philosophy is delivered through the well established safety case methodology. A safety case requirement applies before the commencement of operations and must cover the full range of operations being undertaken, with their associated risks. Ongoing scrutiny by the HSE is provided via a dedicated Inspector assigned to each Duty Holder. This ensures that major accident risks are evaluated and eliminated while also obliging the UK industry to review its existing arrangements in the light of new information, such as that resulting from last year's incident in the Gulf of Mexico. It is strongly advised that the authorisation components of the UK's current regime are not interfered with, given that they are widely regarded as an example of best practice which has evolved to meet the needs of a safety-focused industry. Any backward step towards prescriptive, centralised regulation could contradict and undermine the UK's existing regulatory framework, under which thousands of wells have been safely drilled in the UK continental shelf over recent decades.

2. European law ¹foresees that the competent national authorities shall ensure that authorisations are granted on the basis of selection criteria which consider, among other things, the financial and technical capability of the companies wishing to carry out offshore oil or gas operations.
 - a) What key elements² should this technical capacity requirement include in your view?
Please limit your response to maximum 500 words

¹ Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons

² Focus is only on the main elements of this capability as opposed to detailed requirements which vary according to the different geological, geophysical, technical and other circumstances of each individual case.

- b) Similarly, what key elements should the financial capability requirement include in your view? (Please limit your response to maximum 500 words)
3. How (such as through legislation or voluntary measures at international, EU or national levels or by industry) should the adoption of state-of-the-art authorisation practices be best achieved throughout the EU? Should neighbouring EU Member States be consulted on the award of authorisations? (Please limit your response to maximum 1000 words)

Best practice from across the EU may be drawn upon in the interest of ensuring authorisation mechanisms of consistently high quality. However, it would be unwise to enforce specific requirements for authorisation on a pan-European basis, given the variety of environmental and operational conditions throughout European operations and the need for mitigation of hazards to be tailored to their actual nature in a specific operation. If consistently high standards are achieved across the EU, then the benefits of international consultation on authorisations seem limited, while such a requirement would introduce additional bureaucratic burden.

Prevention of accidents

4. Please describe here any recommendations or changes (to the current regulatory framework or practices) - if any - that you consider important to improve the prevention of accidents affecting the health or safety of workers on offshore oil and gas installations in the EU: (Please limit your response to maximum 1000 words)
5. Please describe here any recommendations or changes (to the current regulatory framework or practices) – if any – that you consider important in order to better prevent damage to the natural environment from accidents on offshore oil and gas installations: (Please limit your response to maximum 1000 words)

Verification of compliance and liability for damages

The enforcement of offshore health and safety regulations is the general responsibility of national public authorities. The enforcement measures include various activities such as on-site inspections, safety audits and reporting requirements for companies. The organisation, scope and frequency of these measures vary in the different Member States depending on national practices, laws and the local conditions.

While focus on compliance should prevent accidents, a robust liability regime needs also to be in place as accidents resulting in major oil spills may cause extensive environmental, economic and social damage. The financial consequences on the entities found liable for the accident may be significant. EU legislation defines the common principles (e.g. 'polluter pays - principle') and goals for ensuring liability for environmental damages while national laws and courts put them in practice. Concerning environmental liability, the applicable EU law (Directive 2004/35/EC) addresses pure ecological damage in terms of protected species and natural habitats (biodiversity damage), water pollution damage and land damage. As regards affected waters, the ELD covers the territorial waters (up to 12 nautical miles off the shoreline), but not all marine waters under the jurisdiction of EU Member States (up to 200 or 370 nautical miles).

Responsibilities for traditional damage (such as loss of life; personal injury, health defects; damage to property and economic loss affecting for example fishermen) are usually determined by civil courts or tribunals in accordance with national laws and/or case law following goals and principles defined at national level.

Closely linked with the liability is the competence of the liable parties to actually stand up to their obligations. Insurance coverage in the offshore oil and gas sector is partial, with some companies insuring risks to a certain degree and others not. The insurance market does not currently provide products sufficient to cover damages of the magnitude seen in the Deepwater Horizon accident. Moreover, there are no international or EU-wide funds similar to those in maritime transport that would cover environmental or traditional liability.

6. Please describe here any recommendations you would like to make on how to improve compliance of the offshore oil and gas industry with applicable offshore safety legislation and other regulatory measures in the EU. (Please limit your response to maximum 1000 words)
7. In your view, which are the key measures to supervise and verify compliance of the industry with offshore health, safety and environmental rules and who should do the supervision and verification? (Please limit your response to maximum 1000 words)

Under the UK and Norwegian regimes, safety is maintained by carefully analysing the risks beforehand, then ensuring that adequate measures are in place to contain foreseeable dangers, and by recording the analyses and preventative actions available. The responsibility for this is borne by the bodies performing the work, under the oversight of technically competent regulators with sound industry experience. UK legislation defines in general terms a list of possible disaster scenarios for each of which the duty holder must describe how it would be met, its effects mitigated and the safety of the crew assured; a result which is known as the "safety case". This principle extends to rig floor level, where safety assessments are conducted before each new operation; the hazards and the available safeguards being discussed and recorded.

In addition to changes driven by continuous improvement, the onboard safety regime is also subject to inspection and audit from both internal and external sources. From the UK government, there are inspections and assessments from the Health and Safety Executive, the Maritime and Coastguard Agency and the Department of Energy and Climate Change. Meanwhile, platform structures are subject to regular inspection from the classification societies and owners themselves audit the different working departments of the rig at regular intervals as, at the start of a contract, does the oil company chartering the rig.

The Safety Case mechanism thereby provides a continuous means of supervising activities and verifying compliance throughout the commercial and regulatory hierarchy, with appropriate marine, energy and offshore specialists overseeing their respective areas of expertise. The result is a more accurate and better considered framework than would be achieved by operators simply meeting a pre-determined set of detailed legislative requirements, and one which BROA believes is wholly suited to future use.

8. In your view, should the existing environmental liability legislation (Directive 2004/35/EC) be extended to cover environmental damage to all marine waters under the jurisdiction of the EU Member States? (Please limit your response to maximum 1000 words)

The current scope of the Directive is believed by BROA to be appropriate to its intended role. Any extension of the areas within which 2004/35/EC applies should be robustly justified on the basis of clear evidence as to the relevance of such an extension to its original objectives.

9. In your view, is the current legislative framework sufficient for treating compensation or remedial claims for traditional damage caused by accidents on offshore installations? If not, how would you recommend improving it? (Please limit your response to maximum 1000 words)

Within the UK, the legislative basis for such claims, largely within the remit of the Health and Safety Executive, is robust and well proven to be adequate. BROA would not recommend altering existing systems within the UK.

10. In your view what would be the best way(s) to make sure that the costs for remedying and compensating for the environmental damages of an oil spill are paid even if those costs exceed the financial capacity of the responsible party? (Please limit your response to maximum 1000 words)

Transparency, sharing of information and state-of-the-art practices

Transparency of an offshore regulatory regime means the policy and practices on how the regulatory authorities and offshore industry share information with each other, between peers or with the civil society. The degree of transparency affects the awareness of the public authorities, the industry and the civil society, i.e. on offshore oil and gas activities and the way they are managed and controlled. It may also affect the nature of communication, commercial interests of companies, spreading of technologies, lessons learned and cross-border cooperation. An example of transparency in the offshore sector is the practice of some EU national regulatory authorities to publish information such as accident statistics and license award decisions concerning offshore operations.

11. What information on offshore oil and gas activities do you consider most important to make available to citizens and how? (Please limit your response to maximum 1000 words)
12. What is the most relevant information on offshore oil and gas activities that the offshore companies should in your view share with each other and/or with the regulators in order to improve offshore safety across the EU? How should it best be shared? (Please limit your response to maximum 1000 words)

Technical discussion between operators and the regulator on subjects including regulatory initiatives, actual and near-incidents, difficulties with equipment and innovation in safety systems is a vital part of ensuring a safe industry. The sharing of knowledge assists in wider identification of hazards before they manifest themselves with severe consequences and the continuous enhancement of standards across the sector. Within the UK, BROA and other organisations provide fora for these discussions between operators, while the Health and Safety Executive's Offshore Services Directorate also operates its own committees for discussion directly with operators and operators' associations, for instance the Offshore Industry Advisory Committee (OIAC) and the Emergency Escape, Evacuation and Rescue Technical Advisory Group (EERTAG). This model has worked effectively for some time within the UK sector and is recommended by BROA.

13. What information should the national regulators share with each other and how to improve

offshore safety across the EU? (Please limit your response to maximum 1000 words)

14. Which means, if any, would you recommend using to promote, across the EU, the use of state of the art practices to protect occupational health and safety during offshore oil and gas operations? (Please limit your response to maximum 1000 words)

We have already referred to the UK's "Safety Case" regime, which promotes major hazard awareness throughout the chain of command. The Health and Safety Executive also engages with more commonplace workplace occupational health and safety issues, learning as appropriate from the parts of that organisation which regulate other industries. On the basis of experience of that system, BROA commends to the EU the appropriate application of knowledge from all industries by technically capable regulators with direct experience of the specific needs and circumstances of offshore operations. The necessity for promotion of such systems across the EU is, however, uncertain in our view. Creating a new set of mechanisms for development of occupational health and safety standards solely within the offshore hydrocarbon industries would have the potential to isolate learning and reduce the quality of standards in the industry, as well as generating unnecessary bureaucratic and fiscal burdens.

15. Which means, if any, would you recommend using to promote, across the EU, the use of state of the art practices to protect the environment against accidents caused by offshore oil and gas operations? (Please limit your response to maximum 1000 words)

While we have no specific comment in this regard, our views are in a similar vein to those expressed in response to question 14, above and 16, below.

Emergency response and International activities

The emergency response capacity at present consists of resources and contingency plans on the level of the industry, national administrations and of the EU. In general, contingency plans are required for all offshore installations and are complemented by national and EU contingency plans to respond to large scale accidents. Adequacy of resources and their coordination, both affect the effectiveness of response to offshore accident. In response to recent accidents, particularly the one of the Deepwater Horizon drilling rig in the Gulf of Mexico, the emergency capacities are being strengthened. For instance, new response devices are being developed for use in deepwater conditions.

In the Mediterranean and the Black Sea offshore, oil and gas activities are underway both on EU and adjacent non-EU waters. This causes a risk for cross-border environmental damages from a possible offshore accident, not only across internal EU borders, but also across EU's external border. Apart from an interest in promoting high offshore safety practices also in adjacent regions, the EU participates in international activities to increase safety of offshore activities.

In response to the differing regulatory requirements both within the EU and internationally, some oil and gas companies have adopted company practices or standards that they apply to their activities in the EU and outside. Others adjust their practices more substantially to suit local conditions in the given country.

16. In your view what should be the role of the EU in emergency response to offshore oil and gas accidents within the EU? (Please limit your response to maximum 1000 words)

Response to maritime incidents, whether they be related to offshore oil and gas or otherwise, should remain the preserve of national governments. Local knowledge and expertise, as well as understanding of response capabilities, are most relevant at this level and clear national leadership of response is believed to be far more conducive to swift, decisive and effective mitigation of the consequences of an incident. Furthermore, joint working and coordination arrangements already exist between neighbouring countries in many cases, and are tailored to their specific needs and maritime areas.

17. Please describe any recommendations you may have concerning cooperation with non-EU countries to increase occupational safety and/or environmental protection in offshore oil and gas operations internationally? (Please limit your response to maximum 1000 words)

Regional fora, for instance the North Sea Offshore Authorities Forum, already cross European boundaries and provide useful communication channels for regulators. Meanwhile, the international nature of the industry facilitates the global spread of information through its commercial entities. Further development to this is not considered by BROA to be necessary.

18. Please describe here any recommendations you may have on how to incentivise oil and gas companies with headquarters in the EU to apply European offshore safety standards and practices in all their operations worldwide: (Please limit your response to maximum 1000 words)

To a large extent, this is believed to already be the case. North Sea operators focused on safety frequently apply similar standards elsewhere in the world, within the constraints of working in regulatory regimes based upon different fundamental models. It is not considered by BROA to be within Europe's power to further incentivise such uptake of European standards, which will not in any case always be possible due to conflicting requirements or methodologies elsewhere. Any fiscal or punitive measure which might seek to ensure this would therefore disadvantage European-based companies when attempting to operate outside the EU. A more appropriate approach would be simply to ensure the existence of high quality standards within Europe which achieve the level of safety to which operators aspire while avoiding unnecessary regulatory burden; the core principles of these are then likely to be taken up by operators where possible without the need for coercion.

FULL TEXT OF RESPONSE BY THE BRITISH RIG OWNERS' ASSOCIATION

The British Rig Owners' Association (BROA) is the association for persons or bodies corporate owning and/or managing mobile offshore units operating on a regular basis within the UK's jurisdiction. The membership includes companies operating Mobile Offshore Drilling Units (MODUs). BROA was established in 1982 to provide rig owners and managers with a forum for the discussion of common interests and to facilitate industry co-operation with the UK Government, the International Maritime Organization (IMO) and the European Community. As a primarily technical association, BROA provides a forum for discussion by the members of what are in the main part safety issues, and thereby both benefits from and contributes to the collaborative approach of the British offshore community in striving to achieve constant improvements in safety for those working in the industry. BROA is supportive of the current UK safety regime for the offshore hydrocarbon industry, which has been developing in its current form since shortly after the *Piper Alpha* disaster of 1988, and cautions against any dilution of these standards or alteration of their underlying methodologies through introduction of European legislation.

Nonetheless, BROA welcomes the broad policy discussions taking place in Brussels in response to the tragic events in the Gulf of Mexico and looks forward to working constructively with the European Parliament on this important topic. It is important that any forthcoming EU legislative proposals should draw upon the success of current UK practices, which should be considered as the most sensible direction for any pan-European review. Any such review should bring clear value and must not result in a backwards step towards prescriptive, centralised, EU regulation. Below, we respond to those questions from the consultation which we are most able to address.

1. Which changes, if any, would you recommend to the authorisation conditions for offshore prospecting or exploration or production activities? Please specify which authorisations your recommendations concern (all authorisations, those in a specific country, those authorising only a certain stage(s) such as prospecting, exploration or production etc)

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enforce specific requirements for authorisation on a pan-European basis, given the variety of environmental and operational conditions throughout European operations and the need for mitigation of hazards to be tailored to their actual nature in a specific operation. If consistently high standards are achieved across the EU, then the benefits of international consultation on authorisations seem limited, while such a requirement would introduce additional bureaucratic burden.

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