

Public Consultation

Improving Offshore Safety, Health and Environment in Europe

EU Consultation

Your ref

Our ref

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**Lloyd's
Register**

LIFE MATTERS

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1. Introduction

In May 2010, the European Commission launched an assessment of the safety in exploration and production of oil and gas in European waters, and went on to publish on 13 October 2010 the Commission Communication entitled "Facing the Challenge of the Safety of Offshore Oil and Gas Activities", summarising its findings on the matter. These included a conclusion that the offshore oil and gas industry is governed by heterogeneous health, safety and environmental regimes that may not always provide an adequate response to the risks posed due to changes in the activities of the sector, nor legal clarity on the obligations of the industry. It was concluded that further action is needed to ensure that best available practises are adopted throughout the EU.

The European Commission seeks the views of the public on the safety, health and environmental aspects and transparency of offshore oil and gas operations in the EU. The questionnaire below is designed for this purpose. It focuses on the challenges, priorities, and possible improvements that the European Commission could propose to EU Member States and the European Parliament in the course of 2011.

This document contains Lloyd's Register's response to the public consultation questionnaire (see Section 4 below).

2. Who we are

Lloyd's Register is an independent risk management organisation providing world leading expert assurance and technical solutions to a global base of clients in high risk sectors. Since 1760, we have worked to enhance the safety of life, property and the environment at sea, on land and in the air, helping its clients to ensure safe, responsible and sustainable supply chains. With years of experience and our leading edge expertise, we take a broader perspective to add value in the short and long term.

We serve a multitude of high risk sectors across the globe, with offices in 245 locations covering 186 countries and a workforce which exceeds 8,000 people. The Lloyd's Register Group includes a number of wholly owned subsidiary companies, which provide specific services in particular areas of expertise that support Lloyd's Register's overall capabilities. These include: ModuSpec, Scandpower, Human Engineering, MARTEC, ODS, Capstone and Celerity3.

We provide the energy industry with compliance, technical consulting and business solutions to companies of all sizes and from all sectors within the industry. Our scope of services includes upstream, downstream, power and manufacturing operations in the energy sector. We provide world renowned services to the offshore oil and gas industry, with a strong market presence in key offshore exploration and production sectors across the globe. Our energy business helps clients to improve the safety, reliability and performance of their assets.

3. Background and context

As a result of the Deepwater Horizon incident in the Gulf of Mexico, and the Montara oil spill in Australia, the European Commission launched an assessment of the safety of oil and gas exploration and production in European waters in May 2010. The results of the assessment were published in October 2010 in the Commission Communication "Facing the Challenge of the Safety of Offshore Oil and Gas Activities". The European Commission is concerned about the risks of a similar incident occurring within European waters as 'easy' oil reserves deplete and place greater focus on oil and gas E&P activities in more hostile environments, remote locations, environmentally sensitive areas, and in deeper waters (e.g. west of Shetland, Arctic drilling etc.). As a result, the European Commission has invited the views of the Council of the EU and the European Parliament on five focus areas applicable to offshore E&P regulation:

1. Thorough licensing procedures.
2. Improved controls by public authorities.
3. Closing gaps in applicable legislation.
4. Reinforcement of EU disaster response.
5. International cooperation to promote offshore safety and response capacities.

Both parties issued their findings to the European Commission and the Commission is now seeking public consultation on the 'safety, health and environmental aspects and transparency of offshore oil and gas operations in the EU'. The period for public consultation ends on the 11th May 2011 and the European Commission has requested consultation to be submitted by means of a questionnaire which asks a series of 18 specific questions; each question has a set word limit for each response (1,000 words approximately).

4. Our response

Below is our response to the public consultation on improving offshore safety, health and environment in Europe.

4.1 Authorisations

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.) (Please limit your response to maximum 1,000 words).*

Under the current EU system, there are no specific European Directives that apply to environmental consideration arising from offshore oil and gas activities (e.g. chemical use, produced water discharges etc.). Under UK law, specific discharge and chemical consents as well as other broader issues (such as consents to locate) are controlled at a local level by the regulator (DECC) and, in certain cases, with the input from the applicable environmental body (SEPA, Environment Agency) or the MCA.

Both within the UK and other UNCLOS¹ signatory states, waste streams from rigs (sewage, food wastes, garbage etc.), NOx and SOx emissions, and spill prevention and response are covered under international maritime law. However, inconsistencies apply to the offshore oil and gas industry owing to the definition of a ship and the application of such to the offshore industry. For example, maritime law applies to MODUs, FPSOs (but this varies dependent upon if the vessel is 'engaged on an international voyage' or moored at location) but does not apply to a fixed installation, such as a platform or sub-sea structure. Within the UK, the MCA is involved in the regulation and enforcement of such maritime regulations.

The result of the above is a complex regulatory situation with influence from international maritime law, European law and domestic legislation. In the UK, this has resulted in the creation of a legal framework that is governed primarily by means of a permit based system controlled by DECC as a local regulator, but also influenced by other government bodies (SEPA/Environment Agency and the MCA)².

Any future regulations should aim to provide a framework that would simplify current requirements and deliver more harmonious interpretation of industry regulatory requirements by addressing current overlaps in maritime and member state legal requirements. This would be achieved by applying the EU framework to all MODU's, FPSO's and platforms engaged in oil and gas E&P activities. Such an approach would produce a less complex regime and allow for greater consistency in regulatory approach, rather than have the current blurring of maritime and specific offshore regulation.

Further streamlining is recommended through the use of one local regulatory body for offshore oil and gas activities in each Member State. Although such an approach may prove problematic to implement in Member States with more mature offshore regimes that currently use several

¹ United Nations Convention on Law of the Sea 1982.

² The merits and weaknesses of the UK system will be discussed in other response to other questions and aligned with requests for comment and recommendations for improvement in other themes of the Consultation Questionnaire.

regulatory bodies (e.g. UK), such problems may be overcome through the establishment of a single 'umbrella' regulatory body for offshore E&P activities which draws on expertise from existing regulatory bodies. In emerging jurisdictions, it is anticipated that it would prove less problematic to establish a single regulatory body.

One local regulator could review permit conditions and a rig/installation's performance against such in order to ascertain good and bad performers. The use of one local regulatory body would further reduce variance in implementation of European requirements at a local level. European Guidance issued to regulators as to how to apply European regulations would enable a more harmonious implementation of the single permit regulation across Member States.

In order to achieve this streamlining, it is recommended that European law is reformed to provide a framework requiring a single holistic permit for all offshore oil and gas E&P activities. This permit can be used to encompass all current licence, permit and certification requirements to one single document. This is similar to the current onshore IPPC regime which requires an operator to demonstrate that Best Available Techniques are applied to the operation of a plant in order to reduce environmental impact to air, water and land, minimise impact on local receptors, and reduce waste occurring from operations. It is recommended that such a permit is required by any installation or vessel engaged in oil and gas E&P activities and would be regulated by each Member State's single expert offshore oil and gas regulatory body.

Permit requirements should stipulate installation/rig operating criteria (e.g. chemical usage, quantity discharges, emissions to air, fuel consumption, waste generation etc.) and monitoring and measurement requirements to ensure that the permit conditions are to be met; this would be determined on a case-by-case basis to take into account varying operating requirements (water depth, nearby receptors etc.). The oil and gas industry could then effectively self-regulate by following permit requirements, with the use of independent third party verification bodies to verify that permit conditions are being met through inspection and audit. The regulatory body should have the power to impose strict operational limitations, shut-down and *heavily fine operators found to be in breach of permit conditions*.

2. *European law foresees 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 elements should this technical capacity requirement include in your view? (Please limit your response to maximum 500 words).*

National authorities/regulators should consider the following key elements of an applicant's technical capacity when determining the suitability of an application for an offshore oil and gas E&P licence:

- An applicant's technical capacity to comply with all applicable legal requirements.
- An applicant's technical capacity to contract necessary third party services associated with offshore oil and gas operations (e.g. drilling contractors, well services companies, sub-sea engineering etc.).

- An applicant's technical capacity in terms of their in-house competence, management systems, and available personnel resources.

A similar approach is already used by regulatory bodies for licensing applicants in the UK. It is recommended that this is developed and extended to all Member States by means of EU framework legislation.

- b) Similarly, what key elements should the financial capability requirement include in your view? (Please limit your response to maximum 500 words)

We decline to comment as to Question 2 b).

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 1,000 words).*

Please see responses to questions 11 to 15 in Section 4.4 'Transparency, sharing of information and state-of-the-art practices'.

4.2 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 1,000 words).*

In both the UK and Norway (outside of the EU), a Safety Case approach is used which essentially provides for an integrated approach to the management of the unique risks present at each individual offshore drilling rig and installation, achieved by taking into account the equipment, systems and people issues in order to identify hazards to persons onboard the installation/rig. It is recommended that a Safety Case requirement is applied to all jurisdictions through EU framework regulation.

Risks that provide Major Accident Hazards ("MAHs") are determined and further assessed to develop an installation/rig specific risk profile based on the installation/rig's unique operating conditions. From this process, Safety Critical Elements ("SCEs") – part of an installation or its plant, the failure of which could cause or contribute substantially to an accident, or the purpose of which is to prevent, or limit the effect of a major accident³ - are identified and their performance requirement are defined.

In the UK, once the SCEs have been identified and performance requirements defined, a Written Scheme of Examination ("WSE") is prepared, and approved by an Independent Competent Person ("ICP"). The WSE is then put into effect in order to enable an ICP to verify the performance of the SCEs on an ongoing and regular basis throughout the lifecycle of an installation. The Duty Holder (i.e. typically the reservoir owner or operator) also has a responsibility to ensure the integrity of the SCEs via their own assurance processes. These

³ Health and Safety Executive (2006), 'A Guide to the Offshore Installations (Safety Case) Regulations 2005, Guidance on Regulations'.

schemes should also be subject to regular (usually annual) review in order to identify common areas of failure or other improvement opportunities as a driver for continuous improvement and risk reduction. When applied optimally, a Safety Case provides an ever evolving, dynamic process, which is subject to ongoing challenge, review and update.

A Safety Case also provides an extra level of control in that it can be used as an assurance tool by the drilling contractor, regulator, and other stakeholders (e.g. the operator) that the accepted risk control measures and the health and safety management systems are in place and operate effectively. Such measures provide greater accountability for rig owners and installation operators. A Safety Case can be used to clarify boundaries of potential liability associated with an incident, providing that the operator can demonstrate ongoing compliance with the approved safety management requirements outlined in the Safety Case.

Essentially, a Safety Case can ensure that appropriate engineering and system based controls are in place to control risk. It also provides the opportunity to document a commitment to reducing risk to As Low As Reasonably Practical ("ALARP") and provide details on the hazards and risks associated with the facility, the risk controls, and the safety management system that will be used to minimise the risks⁴. The Safety Case should provide links to other elements of safety management and interfaces with the verification schemes for safety critical equipment (e.g. the BOP) and the associated systems (e.g. maintenance, SEMS etc.). This delivers a rig specific, integrated approach to the management of the risk onboard an installation/rig.

A Safety Case approach can provide a useful tool in addressing some of the areas of weakness in offshore regulation identified by the European Commission such as:

- **Accountability and liability for damages** in the event of an incident.
- Provide for the ongoing **verification** of SCEs thus ensuring they are in optimum condition to reduce risk of an MAH onboard.
- **Prevent accidents** by ensuring that engineering and safety management provisions are in place to reduce risk to ALARP.
- **Transparently** present the measures adopted to reduce risk.

If the scope of a Safety Case was extended to go beyond safety of personnel onboard and include environmental elements, such as the development of a rig/installation's environmental risk profile, subsequent major environmental risks/aspects and environmentally critical plant and equipment (and applicable WSE), the benefits offered from an integrated Safety & Environment Case would address the gaps identified in current European offshore regulation. Furthermore, clear synergies exist between BAT demonstration under the (current onshore) IPPC requirements with the Safety Case requirements to demonstrate that MAHs have been reduced to ALARP. To develop the current Safety Case regime seen in Norway and the UKCS into a Safety & Environment Case regime would not prove too onerous a task if a rig/installation has already been required to demonstrate BAT in order to obtain an IPPC Permit (current onshore regime). It is therefore recommended that future European regulations should require all offshore

⁴ National Oil Petroleum Safety Authority (2009) 'Offshore OHS Legislative Framework Information Paper'.

installations and rigs to develop and have approved a European compliant integrated Safety & Environment Case prior to commencing operations in EU waters.

Approval of a Safety & Environment Case would be by the applicable coastal state's offshore regulator, however strict regulator guidance should be made available to aim to deliver harmonisation between regulators so that a Safety & Environment Case approved in one state would likely receive approval should the rig relocate to another Member State's waters/continental shelf. Similar requirements, as seen in Norway and the UK, for an ever evolving document subject to ongoing challenge and review, would be necessary.

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 1,000 words).

As discussed above, we recommended that European law is reformed to provide a framework requiring a single holistic permit for all offshore oil and gas E&P activities. This permit can be used to encompass all current licence, permit and certification requirements to one single document. We believe that a similar approach to the current onshore IPPC regime would achieve this. The IPPC regime requires an operator to demonstrate that Best Available Techniques are applied to the operation of a plant in order to reduce environmental impact to air, water and land, minimise impact on local receptors, and reduce waste occurring from operations. It is recommended that the IPPC Permit requirements are extended to be applied to any offshore installation or vessel engaged in oil and gas E&P activities. As in the current IPPC regime, permit requirements would be regulated by each Member State's local regulatory body. We recommend that a single expert offshore oil and gas regulatory body is to be established in each Member State in order to achieve such or, in more mature offshore regimes, an 'umbrella' regulatory body for offshore E&P activities is established which draws on expertise from existing regulatory bodies.

The requirements of such a permit shall stipulate operating criteria for each individual installation/rig (e.g. chemical usage, quantities discharges, emissions to air, fuel consumption, waste generation etc.). Permit requirements shall also stipulate monitoring and measurement requirements for planned operations in order to ensure that the permit conditions are to be met. Again, such criteria would be determined on a case-by-case basis taking into account each installation's unique operating requirements and environment (water depth, nearby receptors etc.). Such measures would allow for the offshore oil and gas industry to effectively self-regulate by adhering to permit requirements, independent third party verification bodies would provide the necessary link to regulators by verifying that permit conditions were being met through inspection and audit of facilities. In order to adequately enforce the legal framework, each Member State's regulatory body will require authority to impose permit conditions and significantly limit an installation's operation. Regulators would require authority to shut-down those installations that persistently breach permit conditions or cause significant environmental damage. In order to enforce permit conditions, regulators should be able to heavily fine operators found to be in breach of permit conditions.

In a similar approach to IPPC, permit holders would be required to assess an installation/rig's potential accident scenarios; worst case scenarios would be identified and allow for the planning of control measures and emergency response plans. Clear synergies exist with the

requirements of IPPC and a Safety Case in terms of MAH identification and control. It is recommended that an EU framework is established that incorporates both Safety Case and IPPC requirements for each offshore installation/rig would significantly reduce risk and improve HSE performance in the offshore oil and gas industry across Member States. This would allow for emerging/developing state's offshore regulation to progress to a standard similar to that of existing and more mature regulatory frameworks as seen in the North Sea.

4.3 Verification of compliance and liability of damages

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 1,000 words).*

From our experience, we recommend that a European Framework is established which achieves self-regulation across a Member State's offshore oil and gas industry. We believe that this could be achieved through a holistic Safety Case (including environmental element) and an extension of the IPPC framework to apply current onshore requirements for the demonstration of BAT to offshore installations and MODUs. These recommendations are further discussed below in our response to Question 12.

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 1,000 words).*

In the event both of an IPPC Permit (similar to the current onshore scheme) type of regulation for environmental emissions and impacts, or the proposed Safety & Environment Case regime, the role of independent third party verification organisations is crucial in the effective implementation, monitoring, regulation and enforcement of such regimes.

For an offshore IPPC Permit, compliance standards in terms of permitted discharges and emissions would be necessary. As a result, monitoring and measurement arrangements would need to be in place (as per permit requirements) and there would be a need for independent verification at a site level that monitoring/measurement equipment was in accordance with permit requirements, appropriately calibrated and maintained to ensure its accuracy, and operated (with results recorded) correctly. In a similar way as to the current EU-ETS regime, it would be the responsibility of independent third party verification bodies, such as Lloyd's Register, to undertake such work and verify that regulatory requirements are implemented at a local level.

Under a Safety Case/Safety & Environment Case regime, there is a need for independent verification to ensure that an installation/rig's SCEs have been identified, an appropriate WSE is prepared and that the WSE is put into effect and competently implemented by the operator/rig owner in order to ensure ongoing compliance. Again, the role of independent third party verification bodies is key to ensuring the necessary level of industry expertise and impartiality to adequately verify compliance. Given the maritime certification elements applicable to MODUs, FPSOs etc., the expert knowledge and independence of classification and verification societies with a marine heritage (such as Lloyd's Register) enables a holistic approach to verification activities, taking into account both issues (and risks) arising from oil and gas related

activities/equipment, and the vessel/maritime issues and associated risks applicable to mobile installations (e.g. hull condition, MARPOL requirements, SOLAS etc.).

The proposed changes in EU regulation applicable to offshore oil and gas E&P activities place an onus on the oil and gas industry to self-regulate. This is dependent on the actions of operators/rig owners being compliant with stipulated permit and Safety Case requirements. Stringent penalties will be required as a punitive measure for non-compliance with permit terms/Safety Case requirements and independent verification will be necessary to provide a means of ongoing assessment and evaluation of industry compliance. As a result of a greater onus and emphasis placed on the offshore oil and gas industry to effectively self-regulate through adhering to permit/Safety Case requirements (and verified by independent third parties), a catalyst for improvements is provided both in terms of technology advances and HSE management systems developments as experiences and best practices encountered by independent third party verification societies are shared with operators/rig owners.

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 1,000 words).*

The Environmental Liability Directive⁵ establishes a common framework for liability linked to environmental damage, with a view to preventing and remedying damage to animals, plants, natural habitats and water resources, and damage affecting the land. The Directive is aimed at implementing the Polluter Pays Principle; this is the punitive element of EU law which enforces the issue that the party responsible for pollution is liable to pay damages to remedy the environmental damage caused by their actions. This basic concept can vary depending on the extent of damage caused and liability/defences a party can raise to the offence.

It is recommended that the Polluter Pays Principle underpins any liability for environmental damage in future European offshore oil and gas legislation. The Principle acts as a deterrent to would be polluters and encourages operators not to take risks or cut corners in areas where their actions have the potential to cause damage to the environment.

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 1,000 words).*

We believe that the current EU framework is inadequate because the liability arising out of a large scale environmental incident is potentially enough to bankrupt the emerging smaller operators, who are buying and running mature assets on the UKCS, and inheriting the environmental legacy of a platform. As we have witnessed in the Gulf of Mexico, environmental pollution and damage is transboundary, and any large scale incident has the potential to affect the coasts and fishing grounds of numerous Member States. We therefore believe that a more stringent legal framework is required owing to the increased risk; our recommendations for such are discussed below in our response to Question 10.

⁵ Directive 2004/35/EC.

In light of the Macondo blow-out, the current UK legislative framework was reviewed by an Indemnity and Insurance Review Group ("IIRG") within the Oil Spill Prevention and Response Advisory Group ("OSPRAG") which comprises UK regulators, industry representatives, the American Petroleum Institute ("API") and International Association of Oil and Gas Producers ("OGP"). The recommendation by OSPRAG was that the Offshore Pollution Liability Association Ltd ("OPOL") - which administers a voluntary industry mutual agreement requiring each operator to accept strict, 'no fault' liability for pollution damage and reimbursement of public authorities for remedial measures up to a pre-determined limit - is increased in limit to \$250 million. This new limit was judged as sufficient to cover the third party costs of an oil spill in previously modelled spill scenarios, although further modelling work is in progress. We therefore recommend that a similar system to OSPRAG is developed within the EU and liability funding is reviewed to ensure that operators have access to adequate funds to cover remedial damages as a result of an accident.

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 1,000 words).*

In the event of a large scale environmental incident, similar to the Deepwater Horizon blow-out and oil spill, where liability for pollution has the potential to bankrupt the operator responsible, it is recommended that the offshore E&P industry as a whole is required to contribute to the cost of clean-up should the responsible operator go bankrupt. The amount of money contributed to the clean-up could be proportionate to factors such as proximity (in the legal sense) to the incident or the size of a company's market share. The potential for a 'common liability' amongst the industry for environmental damage associated with spills is likely to provide for greater cooperation and knowledge sharing between operators in the development and implementation of emergency response measures.

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

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 1,000 words).*

All activities with the potential to create a significant environmental impact shall be accountable to both authorities and the public. Transparency in EU environmental law is achieved through directives encouraging public participation and access to information⁶. Currently, the key tool for an operator to demonstrate accountability in environmental concerns is in the Environmental Impact Assessment ("EIA")⁷, particularly the Environmental Impact Statement ("EIS") element. However, an EIA occurs at the project planning stage and does not provide for sharing of information and best practice/state-of-the-art practice.

We believe that operators should be obliged to produce an annual HSE Public Statement which communicates key elements of an operator's activities to the public in clear layman's terms. Similar to the existing OSPAR Requirements⁸ for a public Environmental Statement, such a document should communicate a description of the operator's HSE Management System, HSE

⁶ Public Participation Directive 2003/35/EC.

⁷ EIA Directive 85/337/EEC, as amended 97/11/EC.

⁸ OSPAR Recommendation 2003/5.

Policy, objectives and targets, and a summary of HSE performance (including legal requirements). Such a document must be readily accessible and understandable to stakeholders and members of the public. It is suggested that a requirement shall exist for companies to make statements available and ensure they are communicated to the public using a companies' website. Understandably, there will be a need to have the content of such HSE Statements verified by an independent third party. Public access to all information should be available on request.

It is suggested that freely available information (including regulator dialogue) as to how each individual platform/rig manages its specific environmental and safety risks will result in greater transparency in the permitting process and encourage information sharing amongst the industry.

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 1,000 words).

Given the problems facing the oil and gas industry in terms of the availability of 'easy' oil need, the need for the offshore oil and gas industry to develop systems to continually improve safety and environmental protection practices is evident. Such improvements can be driven within the industry as a whole if the experiences and learnings of individual platforms and rigs are shared. In order to encourage sharing of information amongst operators in the oil and gas industry, two things are required: freely available information and industry willingness to share best practices; the latter of which is likely to arise as a consequence of the former.

If operators/rig owners are required to submit a Safety & Environment Case which documents the measures taken to reduce risk to ALARP and demonstrate that BAT is employed to manage environmental aspects, to make a specific legal requirement that such documents are freely available in the public domain would make such information available to all interested parties; both oil and gas industry companies and the public. Freely available public information (including regulator dialogue) would also provide for a more transparent process. As BAT is required to be demonstrated for IPPC Permits, the open availability of current best practice in the public domain would drive improvement in environmental standards, practices and technology in the offshore oil and gas industry.

The current onshore IPPC regime makes provisions that all information submitted as part of the permitting process, including BAT demonstration, is freely available in the public domain and can be accessed via a request to the regulator. Although some provisions do apply for commercially sensitive material in the current regime, these provisions require significant justification to the regulator and commercially sensitive information will eventually become publicly available. The current onshore IPPC regime allows for all information requested by the regulators to be freely available to all stakeholders unless it can be demonstrated that this will lead to their commercial interests to be prejudiced to an unreasonable degree; we believe that this too should apply to the offshore oil and gas industry.

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 1,000 words).

We believe that a European Regulators Forum should be established, where each Member States' offshore regulatory body can share information and best practices with other Member States. This would provide a good network of offshore HSE advice with mutual support to regulators. The forum could be used to drive performance initiatives between Member States and promote the exchange of information among regulators on offshore HSE trends.

It is suggested that a Regulators Forum would be required to hold annual meetings. Agenda items at the meetings would include Member State updates and technical sessions, and cover HSE issues likely to be of common interest, with technical sessions addressing matters such as lessons from incidents, research findings, and regulatory initiatives. Annual meetings could also include a review of joint activity during the previous year, and consideration of any shared work to be carried forward in the coming year, with agreed commitment and responsibility. Ultimately such a forum would allow more mature jurisdictions (e.g. the UK) to share current and emerging best practice with emerging jurisdictions (e.g. Romania) and drive industry improvement.

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 1,000 words).*

The use of one national regulatory body for each Member State would further reduce variance in implementation of European requirements at a local level. European Guidance in the requirements of Safety Case and any EU expectations from framework regulations should be issued to regulators as to how to apply European regulations, as already seen in the use of BAT Reference Notes ("BREFS"). Such European Guidance should be developed as to the requirements of a Safety Case and how such documents are to be used by both the local regulator and the operator. Safety Case Guidance Documents could be developed from existing HSE Guidance Documents in use on the UKCS, and also draw on the experiences and lessons learnt from other more mature Safety Case regimes internationally (e.g. Norway, Australia etc.).

As part of a Safety Case, an operator is required to establish and effectively operate a Safety Management System onboard an installation/rig as a method of controlling risks. Such arrangements would provide a means of identifying and applying appropriate control measures to reduce risks to personnel. Although this would include measures in the Safety Case aimed at preventing an MAH, a Safety Management System also covers occupational health and safety risks facing personnel onboard and a means of controlling them. For example, identifying the hazards associated with working at height and providing appropriate procedural controls and PPE to ensure that the risks to personnel are reduced. Again, European Guidance issued to local Regulators is key to ensure the adequacy of both an installation/rig's Safety Case and Safety Management Systems.

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 1,000 words).*

Again, the use of one national regulatory body for each Member State would further reduce variance in implementation of European requirements at a local level. European Guidance should be issued to regulators as to how to apply European regulations, as already seen in the use of BAT Reference Notes ("BREFS") in the current onshore IPPC regime, with operators

required to demonstrate the use of BAT against established EU considered best practice; this would enable a more harmonious implementation of the single permit regulation across Member States. In turn, this could lead to improved harmonisation and best practice sharing across all offshore oil and gas operations in EU Member States.

4.5 Emergency response and international activities

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 1,000 words).*

At an installation specific level, we believe that the EU role in emergency response should be determined on a level similar to that of the onshore IPPC regime. Under this (through UK national interpretation) each individual operator is required to demonstrate that they are operating within BAT with respect to managing accidents and emergencies specific to each installation. For abnormal and emergency operations, this requires that a documented system is in place to systematically identify, assess and minimise the risks of accidents and potential consequences. To apply a similar framework to the offshore oil and gas industry, there would be a requirement for a formal structured emergency management plan to be in place that covers identification of hazards, assessment of risks, and identifying the techniques required to reduce/eliminate risks. Plans would be specific to each individual installation and are analogous to the UK Safety Case regime.

The role of the EU in response to offshore oil and gas accidents is less clear. Any response to an incident may not be limited to coordinating EU countries and may require the involvement of non-EU countries (e.g. Norway, or other Mediterranean or Black Sea countries) and have to take into account requirements under international legislation, and local national legislation. Currently, resources for spill response for the EU are more highly developed for marine activities than the emergency response arrangements in place for offshore oil and gas E&P activities.

The International Convention on Oil Pollution Preparedness, Response and Co-operation 1990, ("OPRC Convention") already provides the framework for the development of national and regional capacity to prepare for and respond to oil pollution incidents, and also a platform to facilitate international cooperation and mutual assistance in preparing for and responding to major oil pollution incidents from both ships and offshore platforms. In addition, OSPAR Recommendation 2010/18⁹ applies to the Contracting Parties to the Convention for the Protection of the Marine Environment of the North East Atlantic (such as the UK and Norway). However, as a result of the Deepwater Horizon accident, OSPAR contracting states have been directed to reviewing existing frameworks (including the permitting of drilling activities in extreme conditions) and continue to evaluate emergency response arrangements on a case-by-case basis and prior to issuing of permits.

Current EU pollution preparedness and response resources include the European Maritime Safety Agency ("EMSA") which provides technical and scientific assistance in the field of accidental or deliberate pollution by ships and can deliver support in a cost efficient way to the anti-pollution mechanisms of Member States. It also coordinates and develops response and cooperative activities in the field of pollution preparedness for various organisations.

⁹ The Prevention of Significant Acute Oil Pollution from Offshore Drilling Activities.

Additionally, it is involved in preparing scientific and technical information on oil spill response options and developing relevant decision support tools.

In light of recent events in the Gulf of Mexico, we believe that this important resource should be extended from a marine resource to include the remit of offshore installations. It seems clear that the environmental damage caused as a result of the Macondo blow-out caught onshore response teams off guard. We recommend that EU response arrangements are reviewed to ensure that they are adequate to protect the environment in light of a serious environmental incident.

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 1,000 words).

Communication is key to establishing cooperation. In order to achieve effective communication, any EU Regulator Forums should operate an 'open door' policy and encourage countries in nearby coastal states (which may be impacted from an incident in a Member State's waters) to contribute to any emergency response measures or best practice sharing initiatives. This would be particularly recommended for countries with established offshore oil and gas industries who are not EU members (e.g. Norway). For further information on the role of Regulator Forums, please see the response to Question 13 (above).

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 1,000 words).

As an alternative to financial incentives, we suggest that requiring an operator to have in place a verified Corporate Social Responsibility ("CSR") Policy and required Management System arrangements could act as a means of providing incentives for oil and gas companies to apply EU standards on an international basis.

At present in the UK, there is a requirement that an operator must demonstrate to the regulator (DECC) that their Management System arrangements have met appropriate standards prior to commencement of exploration and development activities. It is at the regulator's discretion to determine the suitability of an operator's management governance structure, systems and technical competence of the personnel to plan and perform offshore operations in a capacity that ensures environmental protection and safety of personnel. A similar requirement for CSR arrangements could be adopted among offshore operators in the EU in that they would have to demonstrate that suitable corporate governance arrangements were in place to fulfil the requirements of the company CSR Policy.

Many of the larger operators already have Corporate Social Responsibility ("CSR") policies which should be applied internationally. An oil and gas operator's CSR policy should function as a corporate, self-regulating mechanism to ensure compliance with the spirit of the law, ethical standards, and international best practice. Essentially, if an operator has in place an implemented CSR strategy, the operator should be adopting the highest standard of regulation (e.g. that of the EU framework) to all of its operations globally. As a result, CSR can promote responsibility for actions and encourage a positive impact on the environment, employees,

communities and all stakeholders in all global activity areas. Theoretically the process of assessing an operator's suitability to work within the EU could be extended to consider an operator's international CSR performance as an additional criterion. This would then encourage oil and gas operators to take their CSR responsibilities more seriously if subjected to additional scrutiny, and promote the application of EU safety standards to global operations.

5. Closure

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