

PUBLIC CONSULTATION
Improving offshore safety, health and environment in Europe

Questions for the public **DUTCH RESPONSE** by State Supervision of Mines (on- and offshore authority)

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](#)

Before I start answering the questions put forward in this questionnaire I would like to stress to all parties that there is a lot of onshore drilling in the EU as well and we have to avoid to make special arrangements for offshore drilling only . The technical and managerial failures that led to both Macondo and Montara were not unique for deep sea drilling. It could also have happened on land rigs in the Netherlands or elsewhere in the EU or the world.

Authorisations

1. Which changes, if any, would you recommend to the authorisation conditions for offshore prospect ion 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)

Any authorisation of oil and gas activities should consider the processes that the companies have to go through before the first meter is drilled. These processes start with almost zero information and before the bit goes into the ground a lot of information should have been obtained throughout the process. It is therefore obvious that at the time of applying for an exploration license there is a lot less information available than at the time of finishing of the well programme (design).

It is my feeling that the authorisation conditions that are used in the Netherlands are adequate and primarily based on the EU's hydrocarbon directive.

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?

The most important is of course the know how and experience of the people that make up the management and staff of the company (excluded contractors). Has everybody previous experience in that job and with these activities? Is there in the team sufficient knowledge and experience to direct and control contractors and assess the quality of their competencies, skills and work?

Secondly are there clear lines of responsibilities within the organisation and in case of working with contractors.

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.

Thirdly, is there an (audited) adequate integral management system with sufficient checks and balances to make sure that the right people (competency) are doing the right things (plans) and in the right way (procedures) and that things are done safe and clean.

b) Similarly, what key elements should the financial capability requirement include in your view?

As part of the licensing application companies should demonstrate its viability and ability to meet the actual costs associated with the proposed work programme but they should also demonstrate that they have sufficient funds or indemnity provisions to meet other commitments, liabilities and obligations, including liabilities related to any kind of incidents (preferably on the basis of the worst case scenario).

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?

The hydrocarbon directive already gives a lot of guidance on authorisation it could be considered to evaluate the directive and make amendments to include best practices in one or more of the member states.

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

Although the 92/91 directive is a very comprehensive directive and implemented in national legislation in the Netherlands since 1995 it does not cover 1. well design, 2. well construction and 3. well control (apart from one very general article in the attachment A on well control equipment). Since the direct causes of both the Macondo and Montara blow outs were related to these subjects it would be difficult to explain for the EC not to have any regulations on those subjects. My suggestion would be to make EU legislation on the bases of the best practices in the NSOAF countries

Furthermore I understand that in the new version of the Seveso directive “safety culture” will be introduced. My suggestion to introduce this in either the 92/91 or another logic directive for the upstream oil and gas as well, not too much in detail but goal setting but with a number of key elements that should be in place. One of those elements should be an annual anonymous questionnaire for interviewing the workforce as is the case already in Norway. Finally if world wide standards would be used in the member states of the EU that would make life easier and clearer for the multinationals that are engaged in the upstream activities.

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:

I do not think that there is a need for further legislation in relation to this aspect.

Verification of compliance and liability for 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.**

Apart from the present instruments that are mentioned in the 92/91 I would recommend a very intense cooperation with trade associations and unions. Make sure that the knowledge and information that we as regulators have is used to force other parties to share relevant information with each other;

As regulators send information meant for the management of a company also to the works councils or comparable workers representatives;

As regulators: think of alternative ways of enforcement interventions that are more effective than the present (formal) ones;

As regulators focus on compliance with their own safety management systems and safety cases rather than on government regulations. The outcome will be better;

As regulators: check the working and the effectiveness of the checks and balances (barriers) of the companies on their effectiveness;

Finally working groups consisting of representatives of operators, contractors and regulator representatives have proven to be very effective in the past and should be used more in the future for relevant subjects.

- 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?**

Sufficient number of highly educated inspectors with 8-10 years industrial experience, sufficient budget to pay attractive salaries and adequate powers to intervene. I observe large differences in number of inspectors per object of supervision throughout the member states. My suggestion is for the EC to investigate the different regimes, enforcement policies and available manpower.

- 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?**

I would support exploring mechanisms to ensure that liability for damage caused by offshore activities is properly addressed in a manner which does not deter or exclude smaller companies from contributing to the upstream oil and gas activities.

- 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?**

See answers to questions 2b and 8.

- 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)**

See answers to questions 2b and 8.

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

This should be the responsibility of the national authority; on the basis of experience with the freedom of information legislation in a particular country the authority knows very well what information should be published.

- 11. What information on offshore oil and gas activities do you consider most important to make available to citizens and how?**

The EC could take the initiative to define a common set of indicators that are to be used by all member states that gives information on the **outcome** of safety and environmental efforts in a particular country. At present there is no uniformity. These indicators can then be published by the EC and will help to stimulate authorities, sector and individual companies to improve continuously.

- 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?**

Sharing lessons of incidents should be a natural behaviour of companies. Direct and indirect causes should be openly discussed with the intention to learn rather than determining guilt or liability. The trade associations are the best forum for that and improved cooperation between national trade organisations across borders would help disseminating the information also internationally. Regulators are to make sure that this process is working and effective and where that is not the case they should take the initiative with disseminating that information.

- 13. What information should the national regulators share with each other and how to improve offshore safety across the EU?**

As a member of NSOAF State Supervision of Mines exchanges information with their North Sea colleagues on accidents and incidents (near misses), updates and changes in national legislation, results of particular projects, enforcement approaches, multinational audits, views on international developments. Similar topics are also being exchanged within the International Regulators Forum.

- 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?**

One way would be to widen the scope of the NSOAF and allow new entrants from active offshore countries. However there are disadvantages to that. With the limited number of countries that are member now NSOAF can operate without a permanent secretariat and all work is done by the member organisations themselves. Enlargement of the membership would require a secretariat and more time from the members as well. My suggestion would be to discuss this in an EC/NSOAF

workshop.

- 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)**

In my view if the aforementioned enlarged NSOAF would also amend their remit and take on the responsibility for environmental matters as well that NSOAF (obviously renamed) could than play that role.

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?**

The emergency response is primarily a responsibility of the company involved and secondarily a responsibility of the national regulators. However I would support EMSA having a role in helping to clean up pollution if asked by a memberstate.

- 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?**

Within NSOAF we work with a non EC country without any difference in relations. The same is the case for the International Regulators Forum. Both are excellent fora to cooperate with other countries . By the way both organisations are discussing their future role, membership and remit at the moment.

- 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.**

In my view offshore countries (both regulators and industry/workforce) worldwide should contribute to adequate state of the art international standards (so based on the best practices) that can be referred to in safety management systems and safety cases by the companies in all countries around the world (with the possibility of small deviations if so required by circumstances for individual countries). That would not only help multinational companies to behave the same all over the world it would also force to do so.
