

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.

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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)

Cyprus proposes the establishment of an unequivocal liability regime to cover for cleanup costs that might arise as a result of a major accident, while stressing out the risk of disqualifying technically competent operators with limited financial capacity. The issue being that even a large exploration company might not have the resources to meet the full cost of a major incident, it's essential for the EU to identify and include such mechanisms that will allow small-to-medium size companies to continue being involved in oil and gas operations in EU waters.

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

In Cyprus, according to the national legislation, each application for exploration or exploitation hydrocarbons shall contain technical capacity documentation.

The technical capacity documentation shall demonstrate the applicant's experience in oil and gas exploration and exploitation activities. Having regard to the areas subject to applications, specific attention will be paid to relevant experience of the applicant with

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.

respect to offshore areas, deep offshore areas, environmentally sensitive areas, gas development and exploitation, conduct of operations as an operator where applicable for the Operator. In addition, the applicant shall provide detailed information on current world E&P operations, including annual reports, and levels of production and E&P investments for the last three years.

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

Also, according to Cyprus's national legislation, the financial capacity documentation shall demonstrate the applicant's financial ability to finance oil and gas exploration and exploitation activities.

It shall include the financial structure of the applicant and its parent company, if any, including annual reports, audited balance sheets and profit and loss statements for the past three years, and any reports which the applicant or its parent company may have filled to competent authorities responsible for securities regulation during that period.

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)

There is already a Directive regarding the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons, which is harmonised from all member states, including Cyprus. This Directive sets out a common regulatory system for authorization of these kinds of activities throughout all member states.

Regarding the question if neighbouring EU Member should be consulted on the award of authorizations, Cyprus has sign and ratified the Convention on Environmental Impact Assessment in a Transboundary Context. According to the Assessment of Environmental Impact from Certain Projects Law, in the case where another State (MS of the EU or any another State which has ratified the Espoo Convention) might be affected by a project, Cyprus must ask their opinions regarding the project.

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)

In Cyprus, according to the national legislation, prior to the commencement of any drilling operations, the holder of an authorization shall prepare and submit to the Minister of Commerce, Industry and Tourism of the Republic, for evaluation and approval, a contingency plan for hydrocarbon leakage and fire. In such a case, the holder of an authorization shall immediately apply the relevant contingency plan.

Additionally, any offshore oil and gas installation must have a health and safety document that includes: a) recording and evaluation of all dangers, b) all the health and safety measures and c) demonstration that the design, use and maintenance of the

workplace are safe.

Recommendations for the prevention of accidents affecting the health or safety of offshore oil and gas installations are:

- Good and frequent inspection from the competent authorities;
- The verification of the facility must come from a 3rd party.

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)

For the hydrocarbon licensing program within the Exclusive Economic Zone (EEZ) of the Republic of Cyprus, a Strategic Environmental Assessment (SEA) was prepared by the Ministry of Commerce, Industry and Tourism and approved by the Department of Environment of the Republic. The SEA study also covered the effects of oil spills in the marine environment. According to the Model PSC for hydrocarbons exploration and/or exploitation, the contractor is bound to follow and comply with the results and recommendations of the SEA.

Also, according to the hydrocarbon legislation, an entity that submits an application for obtaining an authorization to exploit hydrocarbons is bound to comply with the provisions of the Assessment of the Effects of Certain Projects on the Environmental Law.

The holder of an authorization ensures that hydrocarbons operations are conducted in an environmentally acceptable and safe manner, consistent with the environmental legislation in force for the time being and the good international industry practice, and shall exercise effective control for that purpose. Hence, the holder of an authorization is bound to take all the necessary measures in order to minimize any avoidable environmental pollution or damage to the water, the soil or atmosphere, in relation to hydrocarbons operations:

- Prior to the commencement of any drilling operations, the holder of an authorization shall prepare and submit to the Minister for evaluation and approval, a contingency plan for hydrocarbon leakage and fire. In such a case, the holder of an authorization shall immediately apply the relevant contingency plan.
- In case of any other emergency or accident which affects the environment, the holder of an authorization shall take all reasonable and necessary measures, in accordance with the generally accepted international petroleum industry practice.
- In the event that the holder of an authorization omits to take the appropriate measures within the time-period specified by the Minister, the Minister may direct any action which he deems necessary and require the holder of an authorization to pay any expenses required for the execution of such actions.

A possible change to the European legislation is the establishment of an unequivocal liability regime to cover for cleanup costs that might arise as a result of a major incident.

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)

In Cyprus, the legal framework is strict and covers all the aspects of offshore activities of oil and gas, including the protection of the environment and health and safety. For the implementation of this legal framework an important factor is accurate and frequent inspections of the offshore facilities by the competent authorities.

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)

The key measures to supervise and verify compliance of the industry regarding the offshore health, safety and environmental rules are the accurate and frequent inspections of the offshore facilities by the competent authorities. Also, the verification of the facility, apart from the competent authority, should come from a 3rd party.

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 Environmental Liability Directive may be extended to cover environmental damage to all marine waters under the jurisdiction of the EU members. But the Directive doesn't oblige operators to take out a financial security, such as insurance, to cover their potential insolvency.

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)

In Cyprus, when an applicant is selected for an exploration block shall enter into a Production Sharing Contract (PSC) with the Republic of Cyprus.

According to the Model Production Sharing Contract (PSC), the contractor shall indemnify and compensate any person, including the Republic, or its agencies and/or instrumentalities, for any damage or loss which the Contractor, its employees or subcontractors and their employees may cause to the person, the property or the rights of the Republic, or its agencies and/or instrumentalities, and/or such other persons, caused by or resulting from Hydrocarbon Operations, including, but not limited to, any environmental damage.

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)

The information, related to the offshore oil and gas activities, that should be available to citizens is regarding the environment, health and safety.

For the hydrocarbon licensing program within the Exclusive Economic Zone (EEZ) of the Republic of Cyprus, a Strategic Environmental Assessment (SEA) was prepared by the Ministry of Commerce, Industry and Tourism and approved by the Department of

Environment of the Republic. Also, a formal public disclosure meeting was held, in order to present the key findings and receive feedback regarding the SEA study. The date, time and location of this meeting were advertised in the local press, the official gazette of the Republic of Cyprus as well as the website of the Ministry of Commerce, Industry and Tourism, allowing for a period of 30 days notice. At the meeting stakeholders were invited to submit their comments, provide their feedback and receive answers.

Additional, a specific Environmental Impact Assessment (EIA) study will be prepared for the drilling of the first exploration well within the Exclusive Economic Zone of the Republic of Cyprus. When this study is prepared, it will be available for 30 days for public comments and these comments will be taken into account by the competent authorities.

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)

The EU shall work with regulators in other non-EU countries with offshore oil and gas facilities to ensure that the highest standards of safety and/or environmental protection can be achieved globally through an exchange of best practice lessons.

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)

See question 12.

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)

Cyprus, according to the national legislation, the holder of an authorization, for offshore oil and gas operations, shall ensure that hydrocarbons operations are conducted in an environmentally acceptable and safe manner, consistent with the environmental legislation in force for the time being and the good international industry practice, and shall exercise effective control for that purpose. Hence, the holder of an authorization is bound to take all the necessary measures in order to minimize any avoidable environmental pollution or damage to the water, the soil or atmosphere, in relation to hydrocarbons operations.

Also, Cyprus is party to a number of international conventions and protocols, including MARPOL and the Barcelona Convention. Under the Barcelona Convention, there is an offshore protocol specifying control measures for hydrocarbon exploration and exploitation.

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)

See question 14.

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)

The EU should enhance the availability of emergency response capacities in case of an accident offshore including the offshore oil and gas facilities. Also, the use of earth observation services will expanded to oil platform monitoring.

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)

Cyprus is party to a number of international conventions and protocols, including MARPOL and the Barcelona Convention. Under the Barcelona Convention, there is an offshore protocol specifying control measures for hydrocarbon exploration and exploitation. This protocol was adopted on 14 October 1994 in Madrid and Cyprus has sign and ratified the protocol.

Cyprus recommends the strengthening of the cooperation amongst EU and its neighbouring hydrocarbon producing countries, in order to promote offshore safety and to ensure that their regulatory legislation provides equally high levels of protection. Especially in the case of the Mediterranean Sea, the offshore safety issue could also be addressed through the Euro-Mediterranean.

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)

The EU shall work with regulators in other non-EU countries with offshore oil and gas facilities to ensure that the highest standards of safety and/or environmental protection can be achieved globally through an exchange of best practice lessons.
