

PUBLIC CONSULTATION
Improving offshore safety, health and environment in Europe

COMMENTS FROM NORWAY

General remarks

The Montara and Macondo incidents have influenced petroleum activities worldwide. A number of Australian and US reports describing courses of events and analysing causes of the accidents have been published. Future investigation reports on the Macondo incident are expected to provide additional important insight.

Safety and environmental protection have the highest priority in Norwegian petroleum activities. Norway is committed to learn from the accidents in order to avoid similar accidents on the Norwegian Continental Shelf (NCS).

In Norway, both petroleum industry and governmental expert groups are following investigations. Based on detailed knowledge of the NCS, industry standards and technology, safety approach and stakeholders, Norwegian authorities are evaluating implications for the NCS and have challenged the Norwegian petroleum industry on several preliminary issues. Within the North Sea Offshore Authorities Forum (NSOAF), the International Regulatory Forum (IRF) and the OSPAR Convention, Norwegian authorities take part in discussing implications of the accidents in a regional and global context.

Petroleum activities in Norway are subject to a Health, Safety and Environment (HSE) regime that encompasses high standards through regulations and industry standardisation, a clear placement of responsibility and coordinated supervision from the authorities. Norwegian regulations establish the responsibility of the operator in a license group to identify risks and demonstrate safe operations, and the responsibility of the entire licence group to monitor the operator. The division of responsibility between various authorities is devised to ensure checks and balances. Another central feature of the Norwegian system is the dialogue established between the authorities, the oil industry and the employees' organisations. These parties work together systematically to achieve higher levels for HSE and environmental protection.

Norwegian investigations scrutinising reports from the Montara and Macondo incidents have so far concluded that known factors caused the accidents. The risk level on the NCS has not increased because of the incidents. Stricter regulations on the composition of license groups in deep water and/or high pressure/high temperature areas have been set. In such areas, a minimum of two companies within a license are required to have relevant operational experience, either from the NCS or abroad. No operations or licensing rounds on the NCS have been halted as a result of the Montara or Macondo incidents.

It is the view of Norwegian authorities that we have a solid safety approach on the Norwegian Continental Shelf, and a system that we shall continue to build on. Norway is, together with other producing countries in Europe, in the process of a quality scrutiny of relevant safety legal frameworks. The Petroleum Safety Authority Norway (PSA) will soon present its report addressing implications of the Montara and Macondo accidents for the NCS. The Norwegian Oil Industry Association, through its membership in the International Association of Oil and Gas Producers (OGP), is further expected to address the issues of prevention, intervention and response to accidents such as Macondo, and to continue work on solutions fit for the NCS. Norway will continue to find appropriate solutions.

Without prejudice to the relevance of any legal acts proposed by the EU Commission as regards the scope of the EEA Agreement, which will have to be assessed individually in each case, Norway hereby submits some general comments regarding a possible harmonisation of legislation in this field:

The international global framework for all activity on the continental shelf is the United Nations Convention on the Law of the Sea, and any new EU legislation must be compatible with this Convention.

It is important that the EU through its actions does not inadvertently undermine the effective regulatory and supervisory regimes that are already in place in the oil-producing countries around the North Sea, and which are based on decades of experience. A well functioning system for regulating oil and gas activities in one country may not be functional in another. It is Norway's experience that specific national circumstances are key factors when establishing and revising regulatory safety regimes. Our firm view is that safety regulations will continue to be handled most effectively by the national state.

With regard to the question of global application of European offshore safety standards and practices for oil and gas companies with headquarters in the EU, one should have in mind that offshore installations are subject to coastal state jurisdiction in the respective countries.

Due to the specific nature of the industry and the level of risk involved, risk management is key to good results. Risk management is about evaluating, prioritising and directing resources in the most useful manner. To facilitate this, Norway's HSE regime has, over the last decades, incorporated lessons learnt from national and international incidents. We believe this is vital to achieving good results. For this reason it is our view that arrangements for transfer of knowledge and experience on the bilateral or regional level will best fulfil the purpose expressed by the Commission of preventing similar accidents from happening in Europe.

The NSOAF and IRF have historically been successful in transferring experience and knowledge between national regulatory authorities in petroleum producing countries. It is Norway's view that we should build on this experience going forward.

Listed below are more detailed comments to the issues considered by the EU Commission.

Authorisations

Norway would like to underline that consultations, prior to any activity being approved, with neighbouring countries that might be influenced by petroleum activities on the NCS, are already an integral part of Norwegian petroleum policy. Companies operating on the NCS must document sufficient competence and capacity to fulfil the safety regulations according to the risk level. The principle of joint and several liability applies to all licenses on the NCS, entailing that all licensees in a production licence have a joint responsibility to cover obligations and costs in a licence.

It is Norway's view that the national decisions regarding issues such as the mandatory consent or acknowledgement of compliance schemes, should not be subject to international consultations. Licenses and other approvals for the exploration and exploitation of hydrocarbon resources is a national prerogative; any suspension of activities is at a nation's discretion. We do, however, recommend a high degree of transparency between the regulators and companies, both at the national and international level. HSE-related regulations within the offshore oil and gas industry are

subjected to briefings in the established co-operation between authorities in IRF and NSOAF.

As stated above, it is Norway's view that safety regulations are most effectively handled at the national level, allowing adaptation to specific national circumstances such as cultural, legal and geological differences. In the following, we would like to present aspects of the **Norwegian offshore safety regime**:

Subordinate to the Ministry of Labour, the PSA has regulatory responsibility for safety, emergency preparedness and the working environment in the petroleum sector. The PSA is the regulator for technical and operational safety, including emergency preparedness, and for the working environment in all phases of the petroleum activity – such as planning, design, construction, use and possible later removal.

PSA assesses the HSE competence and capacity of all companies that wish to enter the Norwegian shelf. These evaluations are used both for prequalification of new companies (licensees and operators) and in license awards. To promote good resource management and high safety standards, a set of award criteria apply to the award of participating interests in production licences and to the appointment of operator. The award criteria have been developed through the licensing rounds and include, inter alia, requirements for relevant technical experience and capacity.

Plan for Development and Operation and Plan for Installation and Operation

A Plan for Development and Operation (PDO) describes the development of a petroleum deposit, whereas a Plan for Installation and Operation (PIO) applies to installation and operation of facilities for transport and exploitation of petroleum. The PSA's role in the authorities' consideration of PDOs and PIOs is to assess HSE issues related to the planned development. The PSA submits its assessment to the Ministry of Labour. This is a mandatory requirement and ensures that the safety authorities are involved in the development of new fields and other petroleum facilities at an early stage.

Mandatory application for consent

Operators must obtain the consent of the authorities in connection with important milestones in order to be able to start or continue their activities. The system has been established to ensure that

- appropriate status points are established in the operator's activities
- the authorities control central decision points in the operator's activities.

Consents are issued in writing, clearly indicating the activity to which they apply. The operator must facilitate the process so that the authorities can carry out a proper evaluation of the applications.

Status of the consent

Applications for consent represent a binding document with regard to the operator's fulfilment of regulatory requirements that fall under the spheres of responsibility of the PSA, the Norwegian Climate and Pollution Agency (Klif) and the Norwegian Board of Health.

The issuing of a consent expresses the authorities' confidence that the operator can carry out the activity within the framework of the regulations and in accordance with the information provided in the application for consent.

The contents of an application for consent are binding and are used as a basis for the authorities' supervision activities after the consent has been granted. If changes are to be implemented in the activities, the operator must inform the authorities as soon as possible if the changes entail a

departure from the assumptions in the consent. In such case, the authorities may issue specific orders or require that the operator make a new application for consent.

How the authorities handle applications for consent

Depending on their content, applications for consent will be processed by both the PSA, the Norwegian Climate and Pollution Agency and the Norwegian Board of Health. In each individual case, the authorities will determine the level of detail required in the processing, based in part on

- experience with the specific operator
- experience with the contractors expected to be involved in the activity
- experience with the relevant project / installation / vessel
- special safety and working environment challenges linked to the activities covered under the application for consent, including the environmental vulnerability of the area
- criticality of the timing for implementing the activity.

The authorities may conduct verifications after a consent has been granted in order to confirm that the activity is being carried out in accordance with the current regulations and the obligations in the application for consent.

Discharge permits

A discharge permit granted by the Climate and Pollution Agency is mandatory for any drilling activity. The application for such permit shall include an environmental risk assessment with regard to acute pollution and an analysis of the need for emergency preparedness measures, including oil spill contingency plans.

Mandatory Acknowledgement of Compliance (AoC) for mobile offshore units

An Acknowledgement of Compliance is a decision by the PSA that expresses the authorities' confidence that petroleum activities can be carried out within the framework of the regulations by using a specific facility. The decision is based on information provided in the AoC application relating to the facility's technical condition and the applicant's organisation and management system, as well as the authorities' verifications. An AoC encompasses technical matters, relevant parts of the applicant's management system, analyses performed, maintenance programme and upgrading plans.

An AoC will be issued based on the authority's follow-up of the applicant and the information that the applicant has provided about the facility and the organisational conditions.

Mandatory AoC

An AoC in itself confers no right to conduct petroleum activities on the NCS. Securing an AoC is essential, however, if a mobile facility registered in a national register of shipping, is to work in the petroleum activities, and is mandatory for drilling facilities, living quarters facilities, facilities for production, storage and offloading, facilities for drilling, production, storage and offloading, as well as well intervention vessels which are to conduct petroleum activities on the NCS.

The owner of a mobile facility or another party who is in charge of day-to-day operation of a facility, may apply for an AoC when said party participates in petroleum activities subject to Norwegian shelf jurisdiction.

Basis for documentation

An AoC is of significance as a basis for documentation in connection with subsequent consideration by the authorities of whether the facility complies with relevant HSE legislation, particularly in connection with the facility-specific part of an application for consent.

An AoC will be issued on the basis of the authorities' assessment of the condition of the facility, measured against the rules and regulations applying to the use of mobile facilities on the Norwegian continental shelf at the time of the AoC.

Prevention of accidents

Norwegian authorities closely examine all information that is made available from the Montara and Macondo incidents in order to identify any needs for changes in supervisory approaches or regulations.

Following the investigation after the Macondo incident we have not at this stage identified any need for changes in the regulations to better prevent damage to the natural environment from oil spills. However, Norwegian governmental policy is to contribute to the further development of oil spill response equipment and methods, to better organisation of oil spill response operations and to strengthen the oil spill response tools in the coastal areas and seashores.

Verification of compliance and liability for damages

Regarding the issue of compliance, Norway has experienced good results using a system based on a combination of supervision and a close dialogue with the players and stakeholders in the industry.

An important part of the dialogue is to enable the companies to fulfil the requirements inherent in the goal-setting regulations. The companies' responsibility for developing and applying solutions in accordance with the regulations creates a sense of ownership and loyalty to the regulations.

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

General information relating to the ongoing activities, regulatory infrastructures risk associated with the activity and the trends in changes in risk level should be available to the public. In Norway, the PSA's website is an important channel for openness, presenting all consents and AoCs issued as well as every audit and investigation report from the agency, reflecting the openness principle central to the PSA's information policy.

In order to improve offshore safety world wide it is of importance to share information relating to both the development of regulations and the experience with enforcing this, between regulators. Further it is of importance to share information relating to accidents and near misses. We refer in this context to the established fora for such information sharing; IRF and NSOAF.

Additionally, a key instrument to protect occupational health and safety will be to promote the development of good industry standards and best practice documents and develop regulations and supervisory systems which recognize the existence of such documents as they are being developed.

Emergency response and International activities

On the NCS, emergency response to acute pollution is the responsibility of the operator of the

licence. However, Norwegian authorities can also take charge of the operation if such action is deemed necessary. All activities are subject to pollution emergency plans.

Norway supports that the European Maritime Safety Agency (EMSA), when called upon by member states, may also assist in response to accidental oil spills from petroleum activities, provided that the responsibility of the operators is not diluted.
