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Response to the Public Consultation on Improving offshore safety in Europe

The Norwegian Oil Industry Association (OLF) is a professional body and employer's association for 96 energy and suppliers companies engaged in exploration and production of oil and gas on the Norwegian Continental Shelf. OLF works to solve common challenges for the members and to strengthen the competitiveness of the Shelf. All the 48 oil and gas producing and exploration companies engaged on the Norwegian Continental Shelf are members of OLF.

OLF is also a national association member of The International Association of Oil & Gas Producers (OGP) who is the recognised representative for upstream oil and gas industry for companies within EU/EEA. *In that respect, OLF supports the response from OGP to the Public Consultation.*

Please find below OLF's response to the Public Consultation on Improving offshore safety in Europe:

Authorisations (Questions 1 -3)

As a member of the EEA, Norway in 1995 introduced the EU directive 94/22EC by amendments in the Petroleum Act section 3 - 5. The open and transparent procedures for granting licenses and using authorisations for the prospection, exploration and production of hydrocarbons are widely recognised in the industry as an effective means to ensure competition on a non-discriminatory basis. Production licenses are granted on the basis of the technical competence and financial capacity of the applicant, and the applicant's submitted plan for exploration and production for the license.

If the applicant is or has been a licensee according to an exploration license, the Ministry of Petroleum and Energy (MPE), may also take into consideration any form of inadequate efficiency or inadequate responsibility that may have been demonstrated by the applicant as a licensee.

The criteria for granting a license shall in accordance with section 3-5 third paragraph first sentence of the Act be formulated and applied in a non-discriminatory manner among the applicants. If two or more applications are regarded to be equal on the basis of the criteria above, other relevant objective and non-

discriminatory criteria may enable a final choice between the applications, and may hence be used as a basis for granting the license.

Before granting a production license, the MPE will consider the applicant's HSE track record. The applicant should also demonstrate the technical competence of its operational staff in Norway, and also demonstrate its monitoring of the contractors' ability in important areas as safety, project development, production operations, well and reservoir technology etc..

Similarly, the MPE will evaluate the applicant's financial capability. The most important criterion is the company's ability to finance any future costs related to the prospective area, especially in connection with the exploration, development, operations and decommissioning of specific petroleum resources. To ensure the financial capacity for any cost or damage for pollution etc., the applicant has to submit a parent company guarantee or a bank guarantee to the Norwegian government. OLF fully support these legal procedures as being a very effective system.

OLF's firm view from a Norwegian perspective is that consultations with other EU Member states on award of authorisations are not needed and that the national licensing system will continue to be handled most effectively by the national state. It is important that the EU does not weaken the effective Norwegian regulatory and supervisory regimes which are based on decades of experience.

Prevention of accidents (Questions 4 – 5)

Throughout 40 years of oil and gas activities, the Norwegian oil and gas industry has gained considerable experience and attained new knowledge in managing risk. Research shows that the safety level is higher in the Norwegian petroleum sector compared to other sectors. Trends in risk level in the Norwegian petroleum activity is annually examined and reported by the Norwegian Petroleum Safety Authorities (PSA). The results show that the overall level of risk of major accidents has declined over the past 10 years since this study of trends in risk level in the Norwegian petroleum activity started. This demonstrates that the industry's targeted efforts on continuous improvements are effective for health, safety, environment, working environment and security. Considerable efforts are made at company level to monitor and manage risk. Likewise, risks are monitored and several projects are launched at sectoral level to mitigate risk.

The Norwegian regulatory regime has developed throughout decades of experiences and in close cooperation with the industry and the employee's organizations. Collaboration between employers, trade unions and the authorities is one of the most important cornerstones in establishing and developing a culture for a prudent level of HSE in the Norwegian petroleum industry, known as the "Norwegian tripartite model". It is the main platform in many of the processes dealing with industry policies, safety, environmental issues and social topics in the sector. In the performance-based regulatory regime it is implicit that the main players themselves, OLF and trade unions, through collaboration decide how the provisions are to be applied.

The tripartite model in petroleum industry has developed through some of the following fora: The Petroleum Safety Forum chaired by the PSA, Regulatory Forum chaired by PSA, Rules and Regulation Competence project (RVK) chaired by OLF, Sector Board Petroleum Standardization chaired by OLF/Standards Norway, Working together for Safety, forum for best practice, chaired by The Norwegian Confederation of Trade Unions (LO), and KonKraft chaired by LO. In addition the parties have extensive and independent projects, e.g. aging of workforce, helicopter safety, aging of offshore installations, use of chemicals, working environment in Arctic areas, etc..

Preventing major accident - New Post Macondo Measures

The Macondo incident has set in motion a series of investigations, which provides an extensive basis for lessons to learn from. OLF has in this context established a member company driven follow-up project. It is an extensive industrial project, in which operators and suppliers take part. New measures are taken. Resources are allocated to update current standards and operations. Recommendations with request to review internal governing documents have been sent to the companies and rig contractors. Seminars and workshops are underway concerning the follow up of management, organisational and working environments issues. The project also stays in touch with other industry associations internationally to coordinate relevant work. OLF, PSA and the unions keep an open dialogue and meet regularly to share information on issues to be followed up at sectoral or national level.

Preventing major accident - Risk based safety management in the Norwegian context

The regulatory regime in Norway is performance-based. This regulatory regime is based on the principle that the legislation sets the broad safety goals to be attained, and that the operator, rather than the regulator, is responsible for safe offshore operations. In Norway, the Petroleum Safety Authority operates a consent system, requiring relevant safety documentation to be submitted in connection with the consent to start activities. Further safety documentation must be available upon request for audits/verifications by the regulator. By contrast, the British regime – known as the Safety Case approach – is based upon the submission by operators of full safety documentation to the regulator for its approval at least every five years.

The Norwegian system displays improved safety record on the Norwegian Continental shelf over the past decades. *It is OLF's position that any new requirements should be considered in light of the supervisory regimes applicable to each country.*

Preventing major accident - Upgrading and improving standards

The regulatory requirements for the Norwegian petroleum industry have developed from prescriptive to performance-based regulations which rest on industrial standards of high quality. The HSE regulations for the petroleum activities are today formulated mainly as functional goal-setting requirements which specify the prudent HSE level that must be attained.

In order to provide the industry with necessary predictability, the legal regime on the Norwegian Continental Shelf, in an HSE context, refers to industry standards or to other normative documents as

recommended solutions and/or practice. Standards are therefore necessary ingredients in a functionally based, innovative, predictable and cost effective legal regime on the NCS. Therefore, the Norwegian offshore regulations heavily rely on national and international standards.

OLF underlines the importance to continue to develop the performance based regulations with extensive use of industrial norms and standards prioritising international standardisation from organisations such as ISO and CEN, but also pay attention to our national and recognised NORSOK standards on the short term.

Verification of compliance and liability for damages (Questions 6 – 10)

Safety and environmental protection has the highest priority in Norwegian petroleum activities. The Norwegian regime for HSE encompasses high standards through regulations and industry standardisation efforts, a clear placement of responsibilities and strong coordinated supervision from the authorities.

The Petroleum Act and the Pollution Control Act are both based on the “polluter pays” principle. According to section 7 -3 of the Petroleum Act, the licensee is liable for pollution damage regardless of fault. The liability for pollution damage is unrestricted, being joint and several among the license holders. This legal system has been fully effective during many year of petroleum production on the Norwegian Continental Shelf.

It is OLF’s position that this system covers the scope of the Environmental Liability Directive (Directive 2004/35/EC).

OLF advises not to extend this directive to all marine waters under the jurisdiction of EU (and EEA) Member States. The current legislative framework is sufficient for treating compensation or remedial claims for damage caused by accidents on offshore installations.

Special rules relating to compensations for fishermen are in place. According to section 8-3 of the Petroleum Act, the licensee is liable, regardless of fault, in respect of financial losses incurred as result of pollution and waste from the petroleum activities, and the cost of reasonable measures to avert or limit such damage or such loss, including damage or loss as a result of such measures. Based on these principles, a compensation scheme has been established to handle claims from fishermen. The scheme is funded by the oil companies and administered by OLF. This system secures quick payment. During 20 years of existence, no claims have been submitted for civil court proceedings. This is truly remarkable, bearing in mind the high activity both in the fisheries and petroleum industry.

To ensure the financial capacity for any cost or damage for pollution etc., the applicant has to submit a parent company guarantee or a bank guarantee to the Norwegian government. The liability is unrestricted, but joint and several among the license holders. Even if one license holder would not be able to fulfil its obligations, the liability rests with the other license holders.

OLF cannot at the present time see the need for an initiative aiming to introduce minimum liability or insurance standards. If, however, such minimum insurance standards are implemented, it must be done in close consultation with industry and the national states.

Transparency, sharing of information and state-of-the-art practices (Questions 11 – 15)

The Norwegian offshore industry aims through OLF to inform the Norwegian citizens in an open and informative way. OLF keeps the media informed in a proactive way through direct contact, our web site and media.

Sharing of offshore safety related information between operating companies is one of OLF's most important tasks. A number of sub groups have been established within OLF to best handle information and transfer experience from incidents in the offshore industry. However, there are areas to be improved in information sharing and OLF would like to work with the European Union to find improvements in this area.

Exchange of information also takes place within OGP and in fora such as North Sea Offshore Authorities Forum (NSOAF) and the International Regulators Forum (IRF).

A major task of information sharing and learning was established in the summer of 2010 after the Macondo incident. An industry driven project was formed through OLF and has focused on identifying lessons learned and on proposing recommendations. Recommendations have already been proposed for standards and company procedures for well planning and well control. With respect to areas like competence, HSE culture, blow out preventer (BOP) design, oil spill response and environmental impact, work is on-going with the objective to propose new recommendations for the offshore industry.

Norway has, as the first OECD country, in 2009 implemented the Extractive Industries Transparency Initiative (EITI) criteria. The Ministry of Petroleum and Energy is responsible for the follow-up in Norway. The implementation requires an annual publication of the oil companies' payments to the state and what the respective government agencies have received.

OLF supports the view that further cooperation and exchange of information between regulators would add value. The exchange of incident statistics and analysis for the offshore industry would be beneficial to all parties in order to improve operational safety. However, any initiative to share information must respect commercially sensitive information in this highly competitive industry.

OLF supports and sees the value of promoting best practices across all relevant states to protect occupational health and safety and the environment for the offshore industry.

Emergency response and International activities (Questions 16 – 18)

OLF supports the initiative to examine whether the effectiveness and efficiency of oil spill response capacity existing in Europe can be further enhanced; however, there is an existing network of organisations and international agreements in place to deal with emergency response. Any additional requirements must be carefully evaluated to prove that they provide added value. The following subjects are relevant in this context:

1. Relevant existing international conventions, agreements and regulations

- a. The Espoo (EIA) Convention of 1991, the obligations to assess the environmental impact.

- b. The Oil Pollution Preparedness, Response and Co-operation (OPRC) Convention of 1990.
- c. The Bonn Agreement, covering the North Sea area with a Counter-Pollution Manual and cross-border agreements, such as 'NorBrit' between UK and Norway.
- d. The Copenhagen Agreement between the Nordic countries.
- e. The Barents Sea Agreement, The Joint Contingency Plan for Combatment of Oil Pollution in the Barents Sea between Norway and The Russian Federation.
- f. The Operators Co-operative Emergency Services (OCES) for oil and gas companies operating in the waters of the North Sea and adjacent waters..
- g. Oil Spill Response (OSR) is a cooperative that consists of 112 member companies including most of the operators on the Norwegian Continental Shelf.
- h. Global Response Network (GRN) is a collaboration of seven major oil industry-funded spill response organisations.

2. Oil spill preparedness organisation

In Norway, the oil spill preparedness is organised into three pillars of spill response

National oil spill response: The Norwegian Coastal Administration (NCA) manages the Norwegian governmental response to oil spills. The NCA is responsible for making sure that a sufficient response to an incident is taken. If the NCA considers the municipal or industry response insufficient, then it has the option to respond itself.

Municipal oil spill preparedness: Municipalities shall provide the necessary contingency equipment/resources to combat minor oil spills. The municipal spill preparedness units are organised into thirty-four larger units called Inter Municipal Preparedness Regions (IUA). IUAs handle spills too large for one municipality to handle.

Private industry oil spill preparedness: The general principle in the Pollution Control Act is that each operating company is responsible for safe operations and to establish oil spill response based on its own activities. To fulfil all requirements of emergency response, the operating companies on the Norwegian continental shelf have organised a body called "the Norwegian Clean Seas Association For Operating Companies" (NOFO).

3. Risk based design and dimensioning of emergency preparedness

The design of pollution prevention in Norway and its link to emergency preparedness plans is based on environmental risk analyses for acute pollution. The environmental risk is dependent on the activity (e.g. maritime traffic, individual offshore installations) and on the sensitivity of the environmental resources that may be influenced by oil pollution. Scenario based oil drift modelling determines the influence area. The probability of trans boundary pollution can be decided with a high level of certainty with this approach.

For the offshore activities and installations, the capacity need of the oil spill prevention is based on best estimates of the reservoirs' blowout rates and duration. Quantitative environmental risk analyses form the basis for any emergency plans. Emergency preparedness analysis shall be carried out in respect of

the facility including results from characterisation of oil, chemicals and the actual efficiency figures for emergency preparedness equipment.

In advance of a planned start-up of an activity that may entail pollution or danger of pollution, the operator shall submit to government a summary of the results from the environmental risk- and oil spill contingency analyses, together with an emergency preparedness plan. The oil spill combating equipment that is included in the emergency preparedness analysis and plan shall have been tested under realistic conditions with regard to functional and operative qualities and collection efficiency.

The general principle is that each operating company is responsible for safe operations and to establish oil spill response based on its own activities. The emergency preparedness measures of the operator shall be suitable for coordination with public emergency preparedness resources.

For further information,

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Best regards

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