

11 May, 2011

To: **Mr. Jan Panek, Head of Unit, DG ENER Unit B3 – Coal and Oil, European Commission**

Subject: **Response to the public consultation on improving offshore safety in Europe**

Dear Mr. Panek

Please, find below MOL Group's response to the Public Consultation on Improving Offshore Safety in Europe.

Should you need any further information regarding MOL Group's position relating to the question, please, do not hesitate to contact me.

With best regards,



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MOL GROUP'S RESPONSE TO THE PUBLIC CONSULTATION ON IMPROVING OFFSHORE SAFETY IN EUROPE

General remarks

MOL Group is a member of OGP, the International Association of Oil and Gas Producers. MOL Group participated and continues to participate in OGP's work regarding off-shore safety, including the work of the Global Industry Response Group (GIRG), which has been established in July 2010, and has focused on identifying lessons learned and potential improvements with respect to the safety of offshore oil and gas activities. As such, MOL Group's answer to this consultation is building upon that of OGP.

Authorisations (3000 words maximum)

Questions 1-3

The Hydrocarbons Licensing Directive 94/22 requires demonstration of technical and financial capability by the operator before a licence can be obtained.

In addition, the systems for licensing and permitting currently applied in the four Member States (UK, the Netherlands, Denmark and Italy) with notable offshore oil and gas activities, as well as in Norway, are sound and ensure application of state-of-the-art technology and procedures. The regulatory regimes in place in these countries require the industry to provide credible safety cases, i.e. to prove on a case-by-case basis that risks are thoroughly assessed and minimised as far as is reasonably practicable and that operations are safe at each stage of exploration and production activities. 'State-of-the-art' practices are enshrined in the safety case approach applied today.

Moreover, operators bear full liability for both property and environmental damage in line with national law and the Environmental Liability Directive 2004/35.

MOL Group does therefore not recommend any changes to the authorisation conditions for offshore prospecting or exploration or production activities. MOL Group, however, does recognise that there may be concerns that not all EU Member States, particularly those that are only beginning to develop offshore oil and gas activities, have a system as solid as the safety case regime in place in European countries with a large experience in offshore oil and gas activities.

It is MOL Group's view that the EU should work individually with the relevant Member States - with the help of other Member States and/or the industry, as appropriate - to bring standards up to those of the European countries with notable oil and gas production.



Prevention of accidents (2000 words maximum)

Questions 4-5

At European level, the health and safety of workers are regulated by two Directives¹ : a general Framework Directive and a sector-specific Directive which regulates the health and safety of workers in the mineral-extractive industries through drilling. At national level, the safety case approach, based on Directive 92/91/EEC, ensures the protection of the health and safety of workers.

MOL Group agrees with the approach suggested in the Communication that the Commission reviews the EU framework, building on the complete Deepwater Horizon investigation results before establishing the need, if any, to amend the Directive 92/11. MOL Group also supports the Communication's recommendation to the Member State licensing authorities and operators to review and update the safety cases as necessary and to communicate on clearly defined upgrade programmes if any deficiencies are identified.

Existing legislation and mechanisms to prevent accidents affecting the health and safety of workers also include EU Directives on product safety² as well as some 5000³ technical standards e.g. from organisations such as the American Petroleum Institute (API), the European Committee for Standardisation (CEN), and the International Organisation for Standardisation (ISO), which are the subject of continual review to ensure further improvement.

With regards to product safety, the national regulatory authorities in some Member States already have sufficient powers to deal with any safety issues regarding equipment. Hence, any proposals for action or change need to be informed through close cooperation between the Commission, individual Member States/national regulators, the industry and, in this case, the relevant standardisation bodies. The same applies to regulations and practices for well design and control.

A similar tight, robust and interlocking network of international, EU and national rules is in place to ensure the protection of the environment.

At EU level, offshore activities are covered by:

- The Strategic Environmental Assessment Directive, which ensures that Member States carry out a screening procedure to determine whether future plans or programmes in the energy sector are likely to have significant environmental effects.
- The Environmental Impact Assessment Directive, under which companies submit to the competent authorities environmental assessments and mitigation proposals for individual projects so that the environmental implications of decisions are taken into account before decisions are made. Project developers inform and consult the public when conducting Environmental Impact Assessments.
- The Industrial Emissions Directive, which regulates emissions to air from offshore installations.
- The Emissions Trading Directive, which regulates carbon dioxide emissions from offshore installations.
- The Marine Strategy Framework Directive, of which the implementation process is under way with several working groups working on the ways of identifying and quantifying through scientifically

¹ Framework Directive 89/391/EEC and Directive 92/91/EEC

² Directive 2001/95 on general product safety; Directive 2006/42 on machinery; Directive 97/23 on the approximation of the laws of the Member States concerning pressure equipment; Directive 94/9/EC on equipment and protective systems intended for use in potentially explosive atmospheres (ATEX).

³ OGP report, Benchmarking on the use of internal technical specifications and external standards by some oil & gas companies, Report No. 450, February 2011



based criteria environmental pressures thereby evaluating and establishing achieving a 'good environmental status'.

- The Habitats and Wild Birds Directive, which ensures the protection of sensitive species and habitats.
- The UN Convention on Environmental Impact Assessment in a Transboundary Context, or Espoo Convention, which lays down the general obligation of governments to notify and consult each other on all major projects under consideration that are likely to have a significant adverse environmental impact across borders.

Furthermore, offshore installations in the North-East Atlantic are covered by the pollution control measures of OSPAR related, for example, to the types of chemicals that can be used, discharges etc. Similar measures also exist in the Offshore Protocol of the Barcelona Convention, which, with the recent ratification by Syria, is just entering into force. Although Italy has not ratified the Protocol, its requirements are applied and enforced and complemented by national regulations. Tight control measures exist equally for the Baltic Sea, where offshore activities are limited at present, through the Helsinki Convention (HELCOM). The Black Sea Convention is active in the Black Sea region. In this context, MOL Group believes that there is value in encouraging the exchange of expertise between these conventions, or via a consultative body of experts building on the model of the NSOAF.

To conclude, in the domains of the prevention of health and safety of workers as well as in terms of the protection of the environment, European operations are subject to a process of continuous learning between regulators and the industry. MOL Group accepts the need to challenge the industry to do even better. Any recommendations for change must be based on a clear identification of shortcomings in the way operations are regulated and must not be designed or implemented.

Verification of compliance and liability for damages (5000 words max)

Questions 6-10

Compliance is an issue to which the industry devotes significant energy and resources and constantly strives to improve. Companies risk fines and suspensions or even loss of permits and licences, in cases of non-compliance. Furthermore, it is important to recognise that the cost of damage to both people and the environment, of any incident, is a strong incentive for the industry to comply with the existing framework.

Supervision and verification of compliance is ensured by the competent authorities. Adaptations to permits are made as considered necessary by the competent authorities. With respect to inspections, any proposed changes to the control system should demonstrate precisely how they would ensure the necessary competence and coordination to the extremely rigorous and proven systems that are in place today.

The Environmental Liability Directive holds companies responsible for environmental damage to protected habitats and species. MOL Group recognises that the Commission may wish to review the scope of the existing environmental liability legislation to cover environmental damage to all marine waters.

In terms of the existing regulatory framework on compensation and remediation for both property and environmental damage, MOL Group understands that the Commission may wish to review current



liability limitation amounts to take into account the scale and consequences of the Macondo accident. MOL Group does, however, not support the establishment of a mandated industry-wide pre-loss mutual insurance fund or mandatory insurance. There are various ways for companies to meet their financial responsibilities and this choice should not be removed. It is also crucial that mechanisms to enable companies to insure their liabilities are carefully conceived in order to avoid pricing smaller companies out of the market place.

Transparency, sharing of information and state-of-the-art practices (5000 words max) Questions 11-15

MOL Group, in principle, agrees to the disclosure of information that national regulators consider fit for publication, as long as no commercially sensitive information is made public.

With respect to the sharing of information within the industry and between companies, OGP since its creation in 1974 has been the place where operators have exchanged information and experience and established guidelines for the industry world-wide. More specifically, the Global Industry Response Group established by OGP focuses on identifying lessons learned and potential improvements with respect to the safety of offshore oil and gas activities.

With regards to the means necessary to promote the use of state-of-the-art practices across all Member States in order to protect occupational health and safety and the environment, MOL Group believes that cooperation and exchange of information between the regulators would be very valuable.

Emergency response and international activities (3000 words max) Questions 16-18

MOL Group supports the initiative to examine whether the effectiveness and efficiency of oil spill response capacity existing in Europe can be further enhanced.

