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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Facing the challenge of the safety of offshore oil and gas activities

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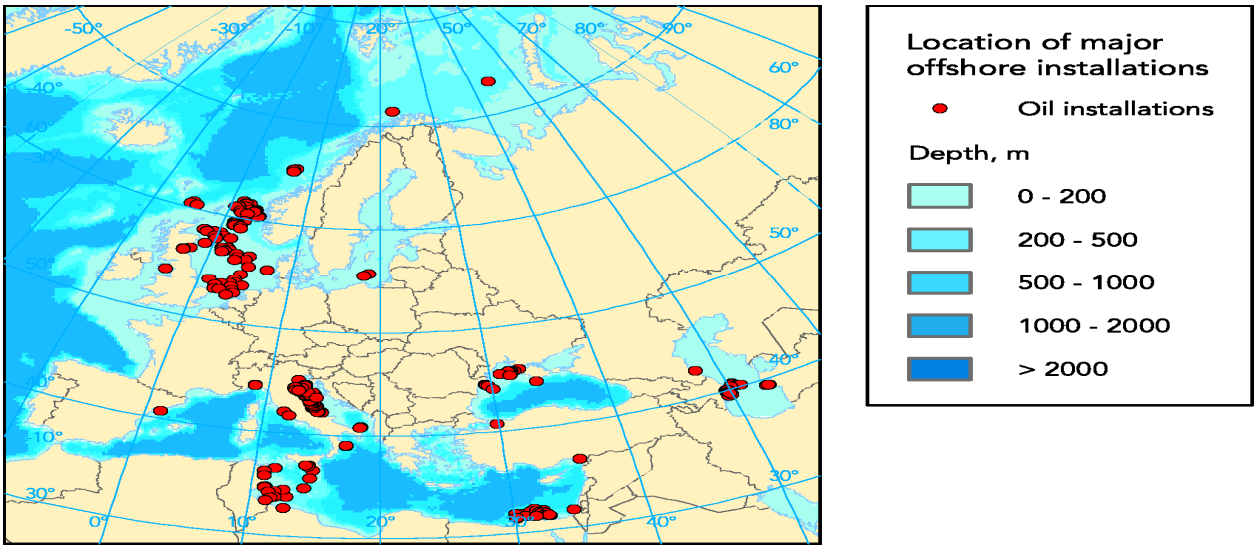
1. INTRODUCTION

The explosion of the Deepwater Horizon drilling rig in the Gulf of Mexico on 20 April 2010 and the subsequent massive leak from the oil well on the sea bottom caused significant environmental, economic and social damage[1].

As waters off EU shores are in parts intensively exploited for the production of oil and gas[2] and more exploration is taking place, the EU has a vital interest in preventing a similar disaster. Although investigations into the causes of the accident, its full impact on ecosystems in and beyond the Gulf of Mexico, and the various responsibilities at stake are still underway, first lessons can already been drawn and acted upon.

The number of offshore installations in the North East Atlantic alone exceeds 1,000. Furthermore, while installations in the Black and Baltic Seas still only amount to single digits, there are currently over 100 installations operating in EU waters in the Mediterranean and plans to start new exploration are reported in the Maltese and Cypriot sectors. Oil and gas exploration or production also takes place in the close vicinity of the EU, off the coasts of Algeria, Croatia, Egypt, Israel, Libya, Tunisia, Turkey and Ukraine.

Major offshore installations in and around Europe



Source: European Environment Agency

[1] Eleven lives were lost in the explosion and subsequent fire. An estimated 4.9 million barrels of oil had been released into the ocean before the leak was halted after 85 days, affecting 350-450 km of US coast.

[2] In 2009, production of oil and natural gas in the EU and Norway amounted to 196 and 269 million tons of oil equivalent, respectively. Some 90% of EEA oil and 60% of gas production originates from offshore.

The European offshore oil and gas industry has not been immune to severe accidents in the past, as the Piper Alpha and Alexander Kielland in the North Sea[3] have shown. As a result, a number of European countries have introduced in recent years strict safety requirements and regulatory regimes. Yet the experience of the Deepwater Horizon needs to lead to sincere reflection also in Europe on whether the current regulatory frameworks and practices are adequate in terms of safety and emergency preparedness and response.

Such a reflection is also warranted by the transformation of the European oil and gas industry in response to the progressive depletion of "easy" oil and gas reservoirs. Exploration is moving towards more complex environments characterised by high pressure/high temperature reservoirs, deeper waters and/or extreme climatic conditions that may complicate the control of subsea installations and incident response. At the same time, production facilities in maturing fields are ageing and often taken over by specialist operators with smaller capital bases.

The EU has an interest in maintaining indigenous oil and gas production for security of energy supply reasons as well as for keeping jobs and business opportunities in the European economy. Whilst risks cannot be totally eliminated in most human activities, including in the offshore hydrocarbon industry, the safety and integrity of operations and assurances of maximum protection of European citizens and the environment must be guaranteed.

The scale and gravity of the Deepwater Horizon accident prompted the Commission to launch already in May an urgent assessment of safety in offshore oil, as well as gas, exploration and production activities in European waters. Through a review of applicable European legislation and consultations with industry and Member States' competent authorities[4], the Commission identified in July[5] five main areas where action is needed to maintain the safety and environmental credentials of the EU:

- thorough licensing procedures,
- improved controls by public authorities,
- addressing gaps in applicable legislation,
- reinforced EU disaster response, and
- international cooperation to promote offshore safety and response capabilities worldwide.

A number of particular best practices exist in Member States and industry already in relation to safety, preparedness and response. However, the challenge posed by the risk of a large offshore accident requires that state of the art practices become the norm throughout the EU and its waters[6]. Such a uniform high level of safety will elicit full public confidence and can

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3 The Piper Alpha platform exploded in 1988 killing 167 people and releasing 670 tons of oil into the sea. 123 people died when the Alexander Kielland platform capsized in 1980.

4 Public administration bodies involved in licensing and supervision of offshore activities in Member States.

5 Statements of Commissioners Oettinger and Damanaki at EP plenary on 7 July.

6 Waters under the sovereignty and jurisdiction of the EU Member States in the Mediterranean, the Baltic and the Black Seas and the North-East Atlantic Ocean, including the waters surrounding the Azores,

underpin EU efforts to ensure high levels of safety, preparedness and response also beyond European borders, both in other jurisdictions and in international waters.

All this can only be achieved through determined action by the public authorities in Europe and a strong partnership between all actors involved - EU institutions, Member States, industry, NGOs and other stakeholders – in line with the principles of the EU's Integrated Maritime Policy. The European Parliament has issued a resolution on EU action on offshore oil activities calling on the Commission to bring forward a comprehensive legal framework ensuring uniformly high safety standards apply across the EU and third countries and including proposals covering inter alia accident prevention, disaster response and liability[7]. This Communication presents the first steps towards such goal.

2. ENSURING "STATE OF THE ART" PRACTICES ACROSS EUROPE

Improving the safety of citizens and the protection of the environment cannot rely on industry's discretionary initiative and self-regulation alone. The regulatory regime must ensure that industry complies with clear, robust and ambitious rules allowing only safe and sustainable operations. In addition, the regime must provide for a high level of transparency enabling the industry and public authorities to demonstrate to any interested party that activities that carry risks to life, environment or property are appropriately managed and controlled.

While international regimes for offshore oil and gas operations are either not fully developed or lack effective enforcement mechanisms, the situation in Europe is largely determined by provisions in the national legislation of individual Member States, as EU legislation either does not cover various relevant aspects of the sector or provides only performance minima. Provisions which apply to offshore activities are also often spread across different EU legislative measures.

This results in licensing, operational safety and environmental protection regimes which vary from one Member State to the next. This heterogeneity complicates the understanding and management of health, safety and environmental risks in Europe and increases costs for companies. Importantly, it risks slowing down coordinated response to accidents affecting several Member States as technical standards, data formats and response procedures vary across Europe and within the same sea basin.

The Commission proposes to work towards an overhauled and more coherent legal framework for offshore exploration and production activities in Europe which ensures EU-wide application of state-of-the-art practices. While European citizens and environment will benefit from ever higher level of protection, the industry stands to benefit mainly through simplification and levelling of the playing field. To this end, various options exist such as amending different pieces of existing legislation individually, designing consolidated legislation for offshore activities, or developing soft legal instruments complementing existing legislation. The risks at stake, the need for legal certainty and the principles of "better regulation" speak in the Commission's view in favour of a single new piece of specific

Madeira and the Canary Islands. These include coastal waters, territorial waters and Exclusive Economic Zones (EEZ).

[7] Resolution on EU action on oil exploration and extraction in Europe adopted on 07 October 2010.

legislation for offshore oil and gas activities, possibly supported by soft legal measures (guidelines).

2.1. The crucial role of responsible licensing

Licensing stands out as the first key tool to ensure the safety of new drilling activities in complex environments. The Treaty on the Functioning of the European Union (TFEU) establishes, in the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, a Union policy on energy[8]. It also recalls that Member States have the right to determine the conditions for exploiting their energy resources, their choices between different energy sources and the general structure of their energy supply, without prejudice to the environmental policy of the Union[9]. The existing EU legislation on licensing[10] deals only with competitive aspects of licensing procedures to ensure equal access to national bidding rounds for entities accross the EU.

Consequently, each Member State issues licences and other approvals necessary for the exploration and production of hydrocarbon resources within its territory and in waters falling under its jurisdiction, setting its own requirements for license awards. Nevertheless, the approvals by individual Member States to drill off their shores may have a significant impact on other Member States. The environmental, economic and social damages caused by a major oil spill affect marine and coastal areas irrespective of national borders.

It is therefore crucial that licensing procedures anywhere in Europe conform to certain basic common criteria. National licensing procedures in all Member States should be reviewed to reflect recognized best practices and to include EU-wide obligations for safety, health and environmental performance, risk management and independent verification.

The licensing regime needs to be backed up by an unequivocal liability regime which must include adequate financial security instruments to cover major incidents. The existing financial security instruments need to be assessed with regard to financial ceilings and may be usefully complemented by other risk-coverage instruments, such as funds, insurance, guarantees, etc.

- Key requirements for the licensing of hydrocarbon exploration and production should be defined at EU level. The Commission will make proposals to that effect in 2011 supported by an impact assessment. Key requirements to be evaluated should include:

(1) Presentation of a full 'safety case' and associated health and safety documentation[11] for each operation, detailing the provisions for dealing with critical events including any concomitant activity which could cause serious accidents.

(2) Demonstration of the technical capacity of prospective operators to take all appropriate measures to prevent and respond to critical events, taking into account the operating

8 Article 194 of TFEU Treaty on the Functioning of the European Union.

9 ibidem

10 Directive 94/22/EC on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons.

11 Directive 92/91/EEC concerning the minimum requirements for improving the safety and health protection of workers in the mineral extracting industries through drilling, Article 3.

conditions of the given location and the character of activities for which a concrete license is sought.

(3) Financial capability to handle the consequences of unforeseen events, including possible participation in suitable insurance schemes or risk-coverage instruments.

2.2. Regulatory regime conducive to highest safety of operations

The fragmentation of legal frameworks in the EU does not only concern the licensing stage, but also the operations of installations. Variations occur as EU Member States transpose minimum requirements from EU health and safety directives into national legislation as Member States are allowed to maintain or introduce more protective measures than those laid down in the minimum requirements. As a result, several drilling rigs operated by the same company in the waters of different Member States may each conform to different regulatory requirements. Besides the obvious challenges to the integrity of safety measures, this complexity may lead in particular to additional costs for the industry and hamper the functioning of the internal market.

To guarantee maximum safety and a level playing field for industrial operators, the requirements applicable to industry through goal-setting or, where appropriate, prescriptive legislation need to be designed according to uniform criteria, inspired by the state of the art in the sector and must be rigorously enforced. These requirements must include, in addition to the financial and technical capability, key features to protect the health and safety of workers on offshore installations, guarantee the integrity of installations, provide a high level of protection of the environment, and prevent and respond to accidents.

Not only future operations and installations but also existing ones must consistently conform to the highest levels of safety and protection. Maintenance should include requirements for regular upgrading of installations as technology evolves.

The existing **environmental legislation** addresses a number of issues relevant to offshore installations (e.g. environmental impact assessment) and certain aspects of offshore operations (e.g. emissions from platforms). Yet the installations are not covered by EU legislation on pollution control and major accident hazards[12] which was mainly designed to address land-based installations and risks of major accidents on land.

- The Commission will assess ways to strengthen environmental legislation in relation to pollution control, inspection, accident prevention and management of individual installations. Legislative proposals will either extend existing legislation to offshore oil and gas installations or develop a stand-alone instrument for such operations.

The minimum requirements for the protection of the **health and safety** of labour force in oil and gas drilling industries are defined in the Framework Directive 89/391/EEC, its relevant individual directives and the sector-specific individual Directive 92/91/EEC[13].

[12] Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (Seveso II).

[13] Council directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work.

- Building on the complete Deepwater Horizon investigation results, the Commission will review the framework for health and safety, including the need to amend Directive 92/91/EEC on the minimum protection of workers in the mineral-extracting industries through drilling, reflecting also on the possible psychological effects of isolated working conditions on the occurrence of man-caused errors.

- Member State licensing authorities and operators should review and update as necessary the "safety cases" and the Safety and Health Documents. Once this review is completed, they should establish a clearly defined upgrade programme should any deficiencies be revealed.

EU **product safety** legislation[14] applies in general to equipment in offshore oil and gas facilities, but excludes from its scope mobile offshore drilling units (MODU)[15] and equipment thereon. MODUs are considered as seagoing vessels and their safety is subject to rules in the International Maritime Organization (IMO) Code for the Construction and Equipment of Mobile Offshore Drilling Units ("MODU Code"). However, this Code includes neither requirements for the operation of industrial equipment used for drilling the wells nor the procedures for their control. Moreover, the relevant EU legislation also excludes well control equipment from its scope.

A number of national, European and international technical standards for offshore oil and gas activities exist, but few of them provide a presumption of conformity with EU law. National regulations often refer to technical standards, but the standards used vary from one Member State to another.

- The Commission will examine the feasibility of extending the scope of EU product safety legislation to include equipment installed and used on mobile offshore units. This will require clarification of the interface with the MODU Code, in cooperation with the IMO.

- The Commission will, in cooperation with national authorities, critically assess current regulations and practices for well design and control, in light of the lessons learned from the Deepwater Horizon accident. If the current rules are found insufficient or too unevenly applied, the Commission will examine the need for further harmonisation in this sector, using appropriate legislative and/or non-legislative instruments.

- The Commission will encourage, in cooperation with the national authorities and standardisation organisations CEN, CENELEC, ISO and IEC, the development of necessary technical standards.

2.3. Liability regimes

Clear provisions on the responsibility for clean-up and the ultimate liability for any caused damage discourage the operators from underestimating risks or compromising on safety measures. This deterrent effect helps limiting the risks of environmental damage.

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[14] Directive 2006/42/EC of the European Parliament and of the Council on machinery, and amending Directive 95/16/EC, and Directive 97/23/EC of the European Parliament and of the Council on the approximation of the laws of the Member States concerning pressure equipment.

[15] The Deepwater Horizon rig was classified as such MODU.

Building on the precautionary and polluter pays principles set in the EU treaties[16], EU environmental and maritime legislation contains a system of provisions to provide for the remedy of damage following an accident. The European Court of Justice has already established, in the context of cases related to shipwrecks, that hydrocarbons accidentally spilled at sea constitute waste within the meaning of EU legislation on waste, with the corresponding responsibilities of the operator for damages, including clean-up costs.

The Environmental Liability Directive addresses the liability for environmental damages that may result also from an accident or other critical events in offshore activities. This legislation must ensure without any ambiguity that offshore operators are under strict liability, not only for damage caused to protected species, natural habitats and to the waters covered by the Water Framework Directive, but also to all marine areas under the jurisdiction of Member States.

- The Commission will propose amendments to the Environmental Liability Directive to cover environmental damage to all marine waters as defined in the Marine Strategy Framework Directive[17].

- The Commission will re-consider the option of introducing a requirement for mandatory financial security and will in this regard examine the sufficiency of actual financial ceilings for established financial security instruments with regard to potential major accidents that involve responsible parties with limited financial capacity.

- The applicability of the Waste Framework Directive to oil spills will be one of the issues to be addressed in a guidance document, currently under preparation, on the interpretation of the said Directive.

2.4. Industry's responsibility

Industry bears the primary responsibility for the safety of its operations. Its operations must give visible and unequivocal priority to safety and sustainability over any other concern. This must be evidenced through investments in prevention, accident response and oil recovery capacities. It is in the companies' interest to convincingly commit to the highest levels of safety and accident prevention, as this will determine the competitiveness of their sector as well as the scope of necessary regulatory actions to come.

The steps taken so far in the industry vary from company to company and need to be complemented by joint industry initiatives. The first such actions have already been announced[18]. Still, the industry needs to make further quantifiable and far-reaching commitments to develop the capacities and adopt an uncompromising "safety-first" culture which will prevent future disasters in Europe and elsewhere.

While both industry and authorities have proved their capabilities to mobilize and rather effectively deploy resources to fight the oil spill in the Gulf of Mexico, the time needed to stem the leak from the well itself as well as to identify the causes constitute a matter of

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16 TFEU Article 191(2).

17 Directive 2008/56/EC.

18 A working group was created within the International Association of Oil and Gas Producers to assess current practices and consider improvements. An industrial consortium has been set up to develop emergency well intervention tools for the Gulf of Mexico.

concern. The industry should therefore work, where suited in partnership with public authorities, on new emergency response tools which will be deployable and usable on equipment and sites in all marine environments in Europe.

- The Commission calls on the industry, which is well placed to assess the technical requirements for safe offshore oil and gas operations, to contribute to setting the necessary standards and to propose self-regulatory actions.

- The Commission calls on the industry to finalise and present still in 2010 individual action plans as well as joint industry roadmaps detailing the timing, nature, content and resources needed to implement the intended actions. These plans and roadmaps should be submitted for scrutiny to the regulators and, to the extent they do not contain commercially sensitive information, be made widely available.

- The Commission calls on the industry to initiate the creation of a consortium tasked with the development and establishment of facilities in Europe for first rapid response in case of accidents. The consortium should undertake to develop tools for emergency well control.

2.5. New model for public oversight

Public authorities bear crucial responsibility for setting a correct regulatory framework for offshore activities, taking into account also the principles of Maritime Spatial Planning[19]. They must also ensure operators' full compliance through effective oversight consisting of communication, advice, control and enforcement.

This must be coupled with active engagement with the general public and stakeholders representing potentially affected economic and social interests. Transparency and inclusion in decision-making and oversight should be promoted in line with best practice in maritime governance[20].

Industry oversight by public authorities should build on best administrative practices already available in Europe and can be reinforced by actions at EU level. For example, the inclusion of inspection tasks similar to those performed in maritime transport in the activities of the European Maritime Safety Agency (EMSA) could be usefully evaluated; subject to EU legislation providing for a clear scope, equipment standards and safety requirements, this could help promote effective oversight and compliance verification across the EU.

- The Commission will, in cooperation with Member States authorities, define state-of-the-art practices to be applied by the regulatory and supervisory authorities in offshore licensing, inspections and compliance monitoring. These will be modelled on the existing best practices in Member States' competent authorities, and their dissemination to all EU jurisdictions will be sought, making full use also of the potential of structured stakeholder dialogue in the Fossil Fuels "Berlin" Forum.

- The Commission will work with Member States to establish a voluntary consultation/reporting mechanism on the licensing of complex offshore operations which

[19] Maritime Spatial Planning is a key tool to manage the competition between different activities for space in intensively used maritime areas by ensuring their long-term stability and predictability.

[20] See Communication “Guidelines on an Integrated Approach to Maritime Policy: Towards Best Practice in Integrated Maritime Governance and Stakeholder Consultation” - COM(2008) 395.

will enable wider expert scrutiny e.g. through a peer review by competent authorities in adjacent coastal Member States.

- The Commission will work with Member States, industry and other stakeholders to provide the public with easy access to continuously updated information on safety measures, risk management, contingency plans and company-specific statistics on key safety indicators.

- The Commission will work with Member States to provide a framework for independent evaluation of the performance of national regulators, notably as regards their supervision tasks.

3. PRECAUTION MUST APPLY WHILE IMPROVEMENTS TAKE PLACE

Until complete investigation results into the causes of the Deepwater Horizon accident are available, industry efforts in enhancing the safety of operations bring tangible results, and the campaign to duly reinforce the regulatory framework across Europe has run its course, particular restraint and additional caution should be applied both to ongoing exploration or production operations and to new planning and permitting procedures.

Precaution should be proportionate to the risks and focus in particular on complex offshore operations where extreme climate, high pressure/high temperature reservoirs, deep water or particularly sensitive natural environments would render such extra care warranted. In such complex operations, a temporary suspension of future authorisations could be appropriate. Any precautionary measures should be proportionate to the risks and co-ordinated at EU level.

- The Commission calls upon the Member States to review all complex oil or gas exploration operations and to ensure that best practice standards are uniformly applied across the EU. While any decision to suspend offshore drilling operations is left to the discretion of Member States, the Commission reiterates its call upon the Member States to rigorously apply a precautionary approach in the licensing of new complex oil or gas exploration operations and to examine whether a suspension of such licensing is needed until the European offshore safety regimes have been assessed in light of the Deepwater Horizon accident.

4. REINFORCING EU'S INTERVENTION CAPACITY FOR OFFSHORE ACCIDENTS

In case of a serious accident off any Member State's shores, its response teams must be able to call on all available capacities at hand, including those of the industry[21] and other Member States. The EU has instruments to complement emergency response and civil protection mechanisms of Member States through the Community Civil Protection Mechanism which, on request, provides support and facilitates the co-ordination and provision of European assistance. It covers both civil protection and marine pollution. Its Monitoring and Information Centre (MIC), operated by the European Commission, is available on a 24/7 basis.

[21] Oil Spill Response Ltd (part of the Global Response Network).

If needed, MIC can quickly mobilise the oil recovery capacity of the European Maritime Safety Agency (EMSA). Although EMSA focuses on marine pollution from vessels and the related emergency preparedness activities, it could meaningfully intervene in case of oil spills from offshore oil facilities as its capacities, such as pollution response vessels and satellite imagery, can cope with an oil spill irrespective of its source. The Commission is therefore initiating changes to the EMSA's Founding Regulation[22] to enable it to support response to marine pollution from any source, including oil and gas offshore installations.

Work is also under way to further strengthen the overall EU disaster prevention and response capacity, including assistance provided through MIC. These efforts should seek synergies with actions taken by the industry aimed at developing capacities for rapid well intervention and oil spill response.

The efficiency and speed of any offshore emergency response also depends on the availability of instantaneous information on the state of the water column and sea-bottom during the accident. These data are not fully available at present on an EU-wide basis and cannot be quickly assembled from fragmented public and private sources to appropriately monitor the progress of an accident.

- In 2010 the Commission will present a Communication with the objective of bringing the wealth of expertise and resources - available at local, national and the EU levels - together into a strengthened EU disaster response system. It focuses on the delivery of relief assistance in the first emergency phase and on strengthening the EU instruments for civil protection and humanitarian assistance.
- The Commission will seek ways to enhance the availability of emergency response capacities, e.g. by requiring that emergency response equipment be available in each relevant region in the EU, working in cooperation with the industry and Member States and building on existing instruments of the EU Civil Protection Mechanism and EMSA.
- In order to enhance the efficiency of emergency responses the Commission calls on Member States to take actions proposed by the Commission in the "Marine Knowledge 2020" initiative in view of creating a coherent and open architecture for sharing information on the state of the water column and sea bottom.

5. NEW PARTNERSHIPS FOR OFFSHORE SAFETY ALSO OUTSIDE EUROPEAN WATERS

5.1. Neighbourhood regional initiatives as first circle of international action

The EU needs to pay close attention to offshore areas adjacent to its territory where offshore drilling is growing and where an accident with any consequent oil spill could damage the environment and economies of several coastal Member States.

In this context, the delimitation of Exclusive Economic Zones and of the continental shelf in accordance with the United Nations Convention on the Law of the Sea (UNCLOS) should be encouraged.

[22] Regulation (EC) No 1406/2002.

In the Mediterranean Sea, a large part of the marine space is made up of High Seas and cooperation between the authorities of riparian States needs to be reinforced.

The EU should therefore seek that regulatory frameworks and industry supervision in jurisdictions neighbouring European waters provide equally high levels of safety and protection. There is a good example of the benefits from regional cooperation between competent authorities in the North Sea[23].

The potential of regional conventions should be explored. This includes re-launching, in close cooperation with the Member States concerned, the process towards bringing into force the protocol combating pollution from offshore activities in the Mediterranean[24]. This would allow involving the already existing Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) in offshore emergency prevention, preparedness and response. Bilateral cooperation, particularly with southern Mediterranean states involved in offshore extraction activities can also be enhanced, notably through Action Plans and instruments under the European Neighbourhood Policy (ENP).

Action with similar aims[25] should also be undertaken through other regional sea conventions, such as OSPAR, Helsinki Convention or the Bucharest Convention[26]. Regional energy co-operation programmes, such as Inogate, already focus on safety and security of energy supplies and could be developed to foster cooperation on offshore activities. The Energy Community Treaty (ECT) should also be considered to address offshore safety actions in the waters of the relevant States.

The Arctic equally merits specific attention due to its particularly sensitive natural environment, harsh climate and significant unexplored hydrocarbon reserves. Binding international rules or benchmarks should be introduced, building inter alia on the guidelines of the Arctic Council[27]. Contacts with Arctic countries are essential in this regard.

- The Commission will intensify dialogues with EU neighbours on offshore safety, aiming at new common initiatives establishing emergency information channels, information sharing on exploration and production, promotion of high levels of safety and prevention, and joint enforcement measures such as inspections of installations.

- The Commission will work with Member States and relevant third countries to stimulate the creation of regional fora/initiatives of competent national authorities in the Mediterranean, Black and Baltic Seas, building on the good example and know-how of the North Sea Offshore Authorities Forum. It will also consider addressing offshore safety through existing bilateral and regional co-operation instruments with EU applicants and neighbours.

- The Commission will also promote action in the context of the existing conventions and protocols.

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23 North Sea Offshore Authorities Forum (NSOAF).

24 Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil.

25 See Article 18 of the conclusions of the OSPAR Ministerial Conference of 23/24 September 2010.

26 Convention for the protection of the marine environment in the North-East Atlantic (OSPAR), Convention for the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention), Convention on the protection of the Black Sea against pollution (Bucharest Convention).

27 Arctic Offshore Oil and Gas Guidelines 2009.

5.2. European industry's international obligation

European oil and gas companies often have increasing offshore operations outside Europe. It is crucial that its industry commits to maintain state of the art safety and environmental practices regardless of the jurisdiction where it operates, including outside the EU.

One option is to introduce obligations on industry with headquarters in the EU to apply uniform offshore safety and environmental policies in all its operations worldwide. Failing to do so might lead regulators to withdraw operators' licences or specific permits.

- The Commission calls on the industry and Member States to adopt transparent and binding obligations on companies with headquarters in the EU to follow European standards of safety and accident prevention in all their operations worldwide.

5.3. Global responsibility

Although the impact of offshore accidents knows no borders, the coverage and enforcement of international law governing prevention, emergency planning, and response is uneven and incomplete[28]. For example a convention on emergency planning[29] focuses only on oil pollution from ships but not on offshore installations. Moreover, financial liability for oil and gas pollution from offshore installations is not covered by any international convention.

The EU is well placed to take a key role in international efforts to strengthen existing rules globally. It needs, however, to join forces with its partners, starting with the US and other important producers including Norway, Russia and OPEC. EU initiatives should build on the International Regulators Forum (IRF) but aim at broader participation[30].

The ultimate aim should be a global system fixing common targets or benchmarks of safety and sustainability in offshore exploration and production that would serve two objectives: First, it should promote the adoption and implementation of strict rules on safety and accident prevention in all jurisdictions with offshore oil and gas activities. Second, it should co-ordinate actions and/or develop joint ones targeting administrations, regulators, standardisation organisations, industry, certifying companies and research establishments in view of maximum possible worldwide compliance with UNCLOS in areas beyond national jurisdictions.

- Existing energy partnerships and dialogues with EU's international partners will be leveraged to initiate an EU-driven global initiative for offshore safety and to agree on general terms of reference of such global action. The EU-OPEC Ministerial meeting has already endorsed an initiative for a roundtable on offshore safety in 2011. The Commission will call for such a meeting in 2011 to agree on the main objectives and explore the targets

[28] UNCLOS foresees the obligation for states to protect the marine environment from pollution, to establish contingency plans and adopt laws and regulations to prevent, reduce and control pollution in areas within and beyond national jurisdiction. Nevertheless, compliance and enforcement mechanisms are not included and implementation relies on the good will of states and of bodies such as sectoral organisations and regional seas conventions. This accounts for major differences in compliance with these obligations, including in European waters.

[29] International Convention on Oil Pollution (OPRC).

[30] The IRF members include Brazil, Canada, Netherlands, New Zealand, Norway, UK and United States.

and benchmarks for best practices and global standards. In addition the Commission will continue contributing to offshore initiatives in the framework of G-20.

6. CONCLUSIONS AND NEXT STEPS

The review conducted in the aftermath of the Deepwater Horizon accident has shown that offshore oil and gas activities in the EU are partly governed by a heterogeneous health, safety and environmental regime. Such a fragmented regime may not provide an adequate response for the risks posed by the evolution of offshore oil and gas industrial activities. It leaves areas of legal uncertainty with regard to companies' obligations and responsibilities and does not allow using to the full extent opportunities offered by EU agencies and instruments.

While some Member States' regulatory regimes feature high levels of accident prevention through strict health, safety and environment protection requirements, further action is needed to ensure the spread of such best practices throughout the EU by a clear state-of-the-art framework at EU level, clarifying EU legislation and filling identified gaps. The EU has every interest to act without delay and ensure that offshore operations in European waters and world-wide comply with the strictest levels of safety, accident prevention and response, without compromise or inconsistency.

The Commission invites the European Parliament and the Council to support the course of action outlined in this Communication and express their views on the specific actions proposed. The Commission will hold further consultations with national regulators and other stakeholders on the scope of the proposed initiatives in view of tabling proposals for concrete legislative and/or non-legislative measures before summer 2011. Any relevant lessons emerging from the inquiries into the Deepwater Horizon accident will be taken into account in the process.