

Offshore oil drilling, gas exploration and production on activities in the EU

Introduction

Environmentally sustainable management at an international level requires reliable information on the natural environment, as well as sharing of knowledge on the social, economic, legal and political systems. Environmental impacts of human activities on the deep sea floor are of increasing international concern.

For instance, the Arctic oil drilling plans are not adequate to face and clean up a major spill in the area, raising environmental health concerns about the potential consequences of a spill to the ecosystem. Further, the consequences of the crude oil gushing into the Gulf of Mexico, on 27 May 2010, after the explosion of BP's Deepwater Horizon oil rig, should not be repeated and offshore oil and gas operations need to be strictly regulated in order to avoid further detrimental impacts.

On the other hand, due to demonstrated negative results of studies on the offshore working conditions and the human impact on offshore oil activities, EU legislation should implement precautionary measures into the petroleum and gas industries. The factors promoting sickness presenteeism on board the platforms need to be restrained, in order to ensure healthy environmental working conditions.

Major offshore disasters in the last three decades and the likelihood of accidents in the sector with possible consequences provoking fatalities, environmental damage and collateral damage to coastal and massive livelihoods, intensified the need on elaborating an effective and efficient risk management system in offshore oil and gas operations.

The situation requires action to reduce the risks, ensure effective response to major incidents and foresee quick recovery of the affected regions and businesses.

With respect to the safety of offshore oil and gas operations, the EU faces a threefold problem which consists of a major offshore oil or gas accident risk occurring in EU waters. The existing regulatory framework, industry practices and operating arrangements do not provide for all achievable deductions in the risks, as well as to accidents that may occur throughout the EU.

Justification for EU action

In line with the subsidiarity principle, EU action can be considered only where it can intervene and realise the objectives more effectively than the Member States. Industry has the primary responsibility and the means to control offshore risks. Nevertheless, there is urgent need of reducing the risk of a large offshore accident and therefore, a complementary action by public authorities will have to take place.

The regulatory approach should cover, not only the North Sea, but also the Mediterranean, the Black and the Baltic Seas.

Further, the principle of proportionality has been ensured by assessing the effectiveness, costs and benefits of EU action to achieve the desired outcome.

In parallel, EU implication could drive progress and ensure compliance through the efficient coordination and regulation of Member States' policies. This could lead to effective international measures and solutions to be adopted, as the matter regards the sphere's environmental balance.

Policy objectives and options assessment

The EU initiative targets two general objectives; firstly to prevent a major incident from occurring in EU offshore oil and gas exploitation with a major emergency in case preventive measures should fail.

These general objectives are divided into four measures: to ensure a consistent use of best practices for major hazards control by oil and gas industry offshore operations potentially affecting EU waters or shores, to implement best regulatory practices among EU jurisdictions, to strengthen EU's preparedness and response capacity to deal with emergencies affecting EU citizens, economy and environment and improve existing EU liability as well as compensation provisions.

The policy options which can be envisaged and be developed, contain a package of measures dealing with regular inspections and penalties, formal safety assessments for acceptance by the regulator, extension of the Major Hazards Report (MHR) to a comprehensive management model, product safety, financial capacity guarantees, a platform for regulatory dialogue as well as compensation schemes for traditional damages. Further, the measures foresee a cross border availability and compatibility of intervention assets, preparedness for effective emergency response to major offshore accidents, extension of EU practices to overseas operations as well as the establishment of a competent authority.

Existing EU legislation in the area of the proposal

The absence of specific offshore oil and gas legislation in EU level is partially completed by EU legislation covering broader sectors of the Union.

The Environmental Liability Directive (ELD) 2004/35/EC regards liability for damages to the environment also in connection with offshore oil and gas. The operator of activities causing significant environmental damage to protected species, natural habitats or water is strictly liable to prevent and remedy the damage and bear the full cost of it. The regulation proposal expands the territorial applicability of the Directive to marine waters under the jurisdiction of the Member States.

The Directive 85/337/EEC and its amendments regarding the environmental impact assessment of certain public and private projects' effects, introduce general minimum requirements. The Waste Framework Directive 2008/98/EC applies fully to oil spills, as already upheld by the CJEU.

Further, the Framework Directive 89/391/EEC and 92/91/EEC refer to the protection of offshore workers and their working environment. The regulation proposal establishes a general system of

control as well as a notification scheme and requires independent verification of critical risk control elements.

The Seveso Directive 96/82/EC does not apply to the offshore sector and can only be used as a good practice example in the area. Nevertheless, Directive 94/22/EC regarding hydrocarbon prospection, exploration and production authorisations sets out the principle legal framework for granting licenses for exploration and production. This strengthens the obligations of the relevant authorities improving this way the assessment of the technical and financial applicants' capacities.

Last, the EU Civil Protection mechanism (Council Decision 2007/779/EC), the Monitoring and Information Center (MIC) and the European Maritime Safety Agency (EMSA) are the EU tools to be coordinated, in order to strengthen EU capacities and Member States' compliance with the new measures regarding offshore oil and gas operations.

Budgetary implication

The budgetary implication of the proposal is approximately €2.5m in the period 2013-2016 including compensations for committee participation. The European Maritime Safety Agency's (EMSA) assistance is primarily related to the use of a satellite surveillance system and the use of emergency vessels organized by EMSA.

Control of major hazards

A prevention policy for major accidents will be set out in a document in order to ensure its implementation throughout the organisation of their offshore operating including the setting of appropriate monitoring arrangements to assure effectiveness of the policy.

Operators, on the other hand, shall describe their organisational arrangements for control of major hazards in a safety management system. The policy and safety management systems shall be prepared in accordance with EU requirements. Meanwhile, operators shall establish and regularly consult with the representatives of the relevant Member States, the industry priorities for preparing and/or revising standards and guidance for best practice in control of offshore major accident hazards throughout the lifecycle of offshore operations.

The competent authorities shall proceed to the execution of any suitable arrangements in order to ensure the independence from conflicts of interest between regulation of safety and environmental protection, in particular licensing of offshore oil and gas activities. The whole established policy and the relevant notifications demanded for the inspection investigation and enforcement of the major hazard aspects of the offshore oil and gas operations should comply with the European Regulation. Non compliance with Regulatory provisions shall lead to the suspension of the operation and the necessary measures shall be adopted followed by notification of the competent authority.

Transparency and sharing of information.

A new system will be established aiming at the efficient sharing of information among operators and competent authorities. Further updated records shall be available by both public and private entities. A company publication format will enable cross-border comparison of data regarding national operations and regular practices.

In case of a major accident, the operator shall notify immediately the competent authority with relevant information including the circumstances of the accident and its consequences. Thorough investigations shall be conducted in Member States followed by recommendations of the competent authority.

Coordination and cooperation.

The new regulation foresees measures regarding the effective cooperation between Member States through exchange knowledge, information and experience. It focuses especially on the functioning of the risk assessment, measures on accident prevention, compliance verification and emergency response related to offshore oil and gas operations within the Union, as well as beyond its borders where appropriate.

Clear priorities and procedures need to be established in order to identify and facilitate the implementation of the best practices in the area. Moreover, the Commission will promote cooperation with third countries that undertake offshore oil and gas operations in the same marine regions as Member States. In parallel, the Commission will assess the safety of oil and gas operations in the matters of the third countries adjacent to waters of Member States and will support a coordinated approach to mutual exchange of experience and the establishment of preventative measures and regional emergency response plans and high safety standards at international level.

The United Nations, the Regional Seas conventions and organisations, as well as the European Union, are developing marine environmental policies and monitoring and reporting procedures in order to confront this major issue.

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