



International Association of Oil & Gas Producers

February 2012

OGP Position Paper on

EU Commission proposal for a Regulation of Safety on Offshore oil and gas prospection, exploration and production activities (COM (2011) 688 Final)

OGP believes that the Commission's chosen approach in the draft Regulation fails to recognise the complexity of the upstream industry, undermines proven goal-setting regimes and inappropriately dilutes operator responsibility for safety. While fully supporting the Commission's objectives of further improving safety and environmental performance, OGP would strongly recommend the objectives be achieved through a Directive.

Safety and environmental protection are fundamental values for OGP and its members, who make it a priority to identify and properly manage the risks associated with upstream operations. This involves ensuring that the right systems, equipment and behaviours are in place to keep operations safe. As a result, OGP member companies have a long-standing history of reliable offshore operations in European waters. Safe, indigenous production currently meets more than 33% of Europe's combined oil and gas demand – making a significant contribution to EU security of energy supply and trade balance.

OGP and its members have successfully developed recommendations for improving well incident prevention, intervention and response capability. This work has led to better engineering design and well operations management. Significant progress is underway to further enhance well incident prevention, intervention and oil spill response capability. Under highly-effective Member State regulations, operations in Europe (90% of which are in the North Sea) are among the world's safest, with the lowest rates of fatalities.

Based on the industry's experience, OGP believes it is essential to recognise the effectiveness of, and the need to continuously improve, the currently robust national regulatory regimes. The priority should be to focus on enhancing safety in Member States with emerging upstream industries.

OGP believes that the Commission's proposal can cause a number of unintended consequences:

- **Without adequate transition periods, Europe's offshore oil and gas activities would face disruption.** Extended implementation periods would be essential to ensure consistency between national legislation and the proposed Regulation, as well as compliance by all parties. Any transition timeframe should follow a risk-based approach to allow the prioritisation of higher risk activities. OGP would be ready to facilitate this process of mutual learning across the Member States.
- **The industry is in favour of continuous improvement and believes that the ordinary legislative procedure, which allows for full engagement of all stakeholders, is more effective than delegated powers to the Commission.** The Member States regulatory authorities, with their proven expertise in promoting continued improvement and learning, are best-placed and qualified to assess the effectiveness of this proposed Regulation. The Commission, with no history of upstream safety expertise, would be better placed to receive information from all Member States and competent authorities, and then in consultation with an EU expert committee (i.e. North Sea Offshore Authorities Forum, International Regulators' Forum), assess any need for further revisions to the Regulation.
- **A number of definitions would require clarifications before the industry could operate under the proposed Regulation.** Definitions under this Regulation must be consistent with the body of definitions currently in use in Member States. Any inconsistencies would make compliance by industry and Member States impossible. OGP proposes changes to a number of definitions, including 'operators' and 'major accident'.
- **Amending Directive 2004/35/EC, the Environmental Liability Directive, through this Regulation would unnecessarily increase legal uncertainty while the Commission is in the process of carrying out a review of risk and liability.** Furthermore, the Directive 2004/35/EC is to be reviewed in 2014.
- **A mandatory separation of licensing procedures would be against common and proven practice and would jeopardise the industry's contribution to employment and economic growth in Europe.** Such a separation stands to damage important economic incentive structures that act to increase industry investment and shorten development project schedules. Licensing procedures must be balanced between the potential for rewards from the production phase and the risks associated with the exploration phase. It is not clear if the proposal is consistent with current Member States practices that allow, but do not mandate, different phases of activities to be licensed, or if Member States would be required to modify existing processes, which are compliant with the Hydrocarbon Licensing Directive 94/22/EC. OGP does not believe that the proposed changes would add value to existing safety regimes.

- **Operators take responsibility for safety. Well design and well procedures aimed at prevention and resilience begin with a three-tier review process including the regulatory level.** This means two levels for the operator, plus the regulator. The reviewer/verifier shall be a competent person/body that is independent from the work under review, and the management lines of those whose work is being checked. Member States should require operators to define those well operations subject to the three-tier review process based on due consideration of the level of risk/hazard.
- **MODU 2009 is effective from 1 January 2012 and would apply only to rigs constructed after that date.** However, all the existing rigs currently working in Europe were built according to earlier editions of Code. Therefore they would not be compliant with MODU 2009 and thus would be excluded from use in the EU. The proposal should allow for the use of rigs in accordance with the earlier revisions of the Code, providing all remaining requirements of this Regulation are met, including adherence to the ALARP (As Low As Reasonably Practicable) principle for risk reduction.

OGP Conclusion:

OGP members are committed to explore for and produce oil and gas in a safe and responsible manner across the EU and internationally.

OGP believes the Commission's proposal could result in reduced progress in offshore safety performance amongst regulators in those Member States with robust, proven regulatory regimes while insufficient focus and priority would be given to improving systems in other Member States where this is a growing need.

Enhanced EU offshore safety goals will be best achieved by a non-prescriptive, goal-setting Directive that builds on current mature and established Member State regulations and learning from other parts of the world. In this respect the Commission may wish to seek advice from an EU expert committee (i.e. NSOAF, IRF) while assessing changes in offshore safety legislation. OGP members believe that a fundamental aspect of the regulatory systems working well in Europe is a high degree of dialogue, transparency and trust between operators, their work forces and regulatory authorities. OGP is willing to contribute to this learning process as new offshore operations will develop across Europe.

However, notwithstanding OGP's strong recommendation for a Directive, OGP has developed a set of detailed amendments, as attached in the Annexes. OGP looks forward to continuing to work with the EU Institutions, Member States and national regulators to ensure safer offshore operations throughout the region.

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