COUNCIL OF THE EUROPEAN UNION

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NOTE

from: General Secretariat of the Council
to: Delegations

No. prev. doc. : 16301/10 ENER 330 ENV 771 MARE 5 COMAR 6 PROCIV 149
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 + ADD 1

Subject: Communication from the Commission "Facing the challenge of the safety of offshore oil and gas activities"
- Adoption of Council conclusions

1. On 13 October 2010, the Commission presented a communication "Facing the challenge of the safety of offshore oil and gas operations" (14768/10 + ADD1). Following the disaster in the Gulf of Mexico in April 2010, the Commission has carried out an analysis of the legislative and regulatory situation in the EU, and suggests a course of action including revision of existing legislation as well as future new proposals, strengthening EU intervention capacity, and action at regional and global levels.

2. The Presidency has proposed draft Council conclusions on safety of offshore oil and gas operations which were examined by the Working Party on Energy at its meetings on 9 and 16 November 2010.
The Permanent Representatives Committee examined the draft conclusions at its meeting on 24 November 2010 and confirmed the agreement on the text set out in the Annex to this note.

3. The Council (TTE - Energy) is invited to adopt the conclusions at its meeting on 3 December 2010.
Draft Council Conclusions

Safety of offshore oil and gas activities

The Council of the European Union,

DEEPLY CONCERNED by the disaster in the Gulf of Mexico in April 2010 in terms of the loss of human lives as well as the major environmental, economic and social consequences resulting from the oil spill;

NOTING that a vast majority of the EU's oil and gas production takes place offshore;

STRESSING Europe's vital interest in taking all possible measures to prevent a similar disaster;

RECOGNISING the important contribution of indigenous oil and gas production to the security of energy supply across the EU and for employment;

BEARING IN MIND the potentially transboundary impact of offshore hydrocarbon exploration and production in Europe, which may take place in vulnerable and complex marine ecosystems, and in this regard RECALLING the value of transboundary environmental impact assessments;

NOTING furthermore the collective and individual efforts of the industry concerned, as well as its record on safety and risk management; UNDERLINING the industry's responsibility for the safety of its operations;

ACKNOWLEDGING that the European offshore industry is facing new challenges such as the upgrading of ageing installations and infrastructures, and the tendency to shift operations into more complex environments as regards operating depths, reservoir pressure/temperature or weather conditions;

RECOGNISING that regulatory regimes in several EU Member States are already considered state of the art in a global comparison;

MINDFUL, however, of the lack of global standards and the diversity of the applicable national regulatory frameworks governing offshore activities;
1. **WELCOMES** the presentation by the Commission of its communication "Facing the challenge of the safety of offshore oil and gas activities"; **TAKES NOTE** of the Commission's analysis and suggested course of action in terms of the legislative and regulatory situation across the EU, safety standards, supervisory regimes, environmental protection and liability, intervention capacity and transparency;

2. **UNDERLINES** the need for a continued comprehensive consideration of all aspects of offshore oil and gas operations in Europe, and for drawing further lessons from the Gulf of Mexico disaster once all relevant reports become available, with a view to achieving highest possible levels of safety of operations, precaution, environmental protection, maritime safety and emergency preparedness and response;

3. **APPRECIATES** that existing EU legislation already provides several elements of an effective regulatory framework for offshore activities, and that EU action can build on existing regimes for developing an approach that secures an adequate level of environmental protection for all EU Member States that are possibly affected by the risks of these offshore activities; yet **TAKES NOTE** that certain legislative areas may usefully be amended or supplemented to make the legal framework more coherent and to ensure application of state-of-the-art practices throughout the Union;

4. **AFFIRMS** that the EU and its Member States should continue to play a prominent role in striving for the highest safety standards in the framework of international initiatives and fora and regional cooperation such as in the North-East Atlantic, the Mediterranean, the Baltic and the Black Seas, by supporting their respective activities and making proper use of their expertise and possible findings, while bearing in mind the need for maximum coherence between efforts at European, regional and international levels;

5. **WELCOMES** in this regard that, further to the recent ratification by the required number of Contracting Parties, the Offshore Protocol to the Barcelona Convention will come into force;

6. **RECALLS** that the United Nations Convention on the Law of the Sea (UNCLOS) sets out the legal framework within which activities in the oceans and seas must be carried out, including the delimitation of the continental shelf and the exclusive economic zone (EEZ);
7. UNDERLINES the importance of a dynamic regulatory framework promoting continuous development and ensuring application of the best available practices throughout the EU to address any future challenges, on the basis of a strong partnership between Member States, the Commission and the industry, to identify and implement the best measures to achieve these goals;

8. STRESSES the crucial role of clear, effective and thorough licensing in the Member States and ACKNOWLEDGES the proven effectiveness of coherent case-by-case evaluation of individual operations based on the presentation of a "safety case" identifying and implementing the most suitable solutions for each installation, location or activity in question;

9. RECOGNISES the importance of the demonstration of the technical and financial capacity of the applicants to deal with any accident prior to the authorisation of the respective activities, and of the demonstration of their ability and commitment to safety management prior to commencement of any operations, as well as the importance of keeping in mind the risk of disqualifying technically competent operators with limited financial capacities, and ACKNOWLEDGES the need to ensure the adequacy of financial security instruments and requirements in that respect;

10. RECOGNISES the importance of adequate intervention capacity being available in the EU and STRESSES the importance of a maximum use of existing emergency instruments and of coordination of the resources allocated by Member States, industry and the EU. Development of new emergency response technologies and procedures needs to keep pace with the increasing complexity of offshore activities and the technological progress of the industry in general;

11. AFFIRMS the importance of adequate national resources and a sound legal basis for national inspection regimes that ensure effective implementation of all safety requirements. Any added value of the possible involvement of existing EU maritime and environmental mechanisms in this process could be evaluated, without prejudice to Member States competences and where the involvement of the Agencies should strictly depend on Member States' request;
12. ACKNOWLEDGES that a clear and comprehensive liability regime in the case of an incident creates incentives for industry to follow an uncompromised safety policy, backed up by robust and unambiguous legislation on the responsibility for all costs related to the incident ranging from the cleaning-up costs to remedial measures and other related damages and direct economic losses, based on the polluter-pays principle, and considering any identified need for new financial security instruments;

13. REQUESTS prompt identification and implementation of the lessons learned after the Gulf of Mexico accident and other major accidents in order to ascertain that a legal framework is in place which ensures common high minimum safety standards and provisions for liabilities in offshore operations across the EU that will minimise the risks of a similar disaster;

14. CALLS on the Commission to continue its analysis of further conclusions to be drawn from the Gulf of Mexico disaster and other major accidents, and, while taking them fully into account, to promote the application of state-of-the-art practices by Member States and the industry throughout the EU and in third countries in all aspects of offshore oil and gas operations, including licensing procedures, product safety, health and safety of workers, environmental protection and liability, public oversight and transparency;

15. CALLS on the Member States to ensure that adequate resources are made available both for prevention of offshore incidents and for prompt and effective response, and INVITES the Commission to evaluate how best use can be made of existing EU civil protection, emergency response and maritime safety instruments/capacities also in the offshore oil and gas sector;

16. UNDERLINES that measures envisaged should be commensurate with levels of exploration and production activities and ensure high levels of safety and environmental protection;

17. AWARE of the environmental and safety aspects concerning installations after the closedown of operations, CALLS on the Member States to favour adequate measures ensuring an environmentally safe decommissioning of offshore installations¹ by the operators and adequate measures to ensure the protection of the environment from abandoned wells;

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¹ If not already addressed in a regional convention, it is noted that, in certain instances, it could be appropriate to include pipelines as an integral part of the installation.
18. RECOGNISES that the risk of such activities could have implications for surrounding areas and that therefore any contingency measures would require a regional dimension. The risk to EU waters might be associated also with activities in third countries with waters adjacent to European regions; therefore CALLS for intensifying and stimulating international partnerships and for carrying out, where appropriate, transboundary environmental impact assessments for such activities in order to ensure that those activities are guided by equally high levels of safety and protection as in the EU;

19. EXPECTS European companies operating in non-EU waters to apply there standards which guarantee safety levels at least equivalent and not lower than those in force in EU waters, if the contractual legal setting in which they operate so allows;

20. SUPPORTS activities aimed at EU leadership in the promotion of global safety of offshore operations, dissemination of EU standards and practices, stronger partnerships with relevant countries and international bodies, and participation in related global initiatives;

21. UNDERLINES the importance of a responsible and precautionary approach by the industry and CALLS upon the Commission and the Member States to involve industry in activities for the improvement of the offshore safety. In particular, the development of new emergency equipment, techniques and procedures and the improvement of the EU's emergency preparedness are areas where the know-how of the industry should be fully exploited and shared among interested parties;

22. RECOGNISES the proven benefits of close cooperation between national administrations in some sea basins in the EU and CALLS on the Commission and Member States to build on existing best practices in this area and promote similar cooperation and exchange of best practices in all relevant regions, making best use of existing international conventions;

In line with the above, the Council

23. INVITES the Commission to present as early as possible in 2011 concrete initiatives, including proposals to amend EU legislation, as appropriate, relevant to the regulation of the offshore exploration and production of hydrocarbons, notably to ensure highest possible safety and protection of the environment as well as provisions for liability, while preserving the capacity of adjusting to changes in offshore exploration and exploitation technology;
24. INVITES the Commission to keep under regular screening the regulatory framework applicable to the exploration and production of hydrocarbons and its implementation.