

Position of industriAll – European Trade Union
on the offshore safety regulation proposal
2011/0309 (COD)

The proposed Regulation on safety of offshore oil and gas prospecting, exploration and production activities 2011/0309 (COD) has been met with strong scepticism by the workers in the most affected countries, represented by their trade unions federated in industriAll - European Trade Union. These unions represent the majority of the workers in this sector.

Health, Safety and Environment (HSE) is a prime concern for workers and their trade unions. Safety for workers and for the environment is two sides of the same coin, and we cannot accept them being compromised by economic interest, risk-taking - or even by well-intended but ill-suited regulatory reforms. We indeed share the aim behind the European Commission's proposal with regard to maintaining and further strengthening high levels of safety, but our experiences tell us that the proposed medicine is either the wrong one or exceptionally lacking in several basic aspects.

It is a strong indication that something is basically wrong when the proposal is met by fierce resistance from all relevant stakeholders in this sector – unions, industry federations and national authorities. Or when Norway - in this matter alone as large as the EU - is opposing the proposal and withdrawing, claiming that its offshore activities is not a matter of EEA relevance and the regulation is not to be implemented by Norway.

For safety regimes in the countries where offshore oil and gas production is well-established, the proposed regulation will mean deep changes in the structure, a turn-around in thinking, approach, roles and responsibilities.

We cannot see that this is for the better, rather the opposite. Workers involvement which is core in some of the present systems seems to have no place in the new legislation proposal. Our fear that we share with both, authorities and employers in several of the countries, is that the level of offshore safety actually will be weakened by this proposed regulation.

There are many concerns raised about the content of the proposal by different actors, such as:

- There is no special reference to countries with geomorphologic or geopolitical peculiarities such as Greece where due to the high density of the islands it is more correct to talk about 'near shore' activities
- The proposal does not cover for some relevant activities, such as oil spills from tankers, pipelines, etc.
- The proposal shifts from a goal-setting approach to a prescriptive system of safety regulation

- The fear of pulverisation of responsibilities in systems where the operator/licensee today holds the full responsibility and liability, and ensures the proper performance by the subcontractors
- Costs and administrative burdens
- The proposal supports reporting regimes that shift responsibility from operators to authorities and from countries to the EU
- The lack of involvement of workers and their representatives

Safety culture and workers involvement

As trade unions, our focus is on the involvement of the workers in the safety management. The trade unions were not properly consulted on the draft, even though it is with the workers that the expertise lies. Involving the people that actually work offshore would have added more credibility to the proposal with regard to the safety culture and openness that are stated as key targets of the proposal.

The implementation of all safety systems is carried out by the workers after all. That is why we consider Safety standards offshore should be determined with the involvement of workers, whether on platforms where production is already well established or in the setting up of an HSE system. Appropriate training should be in any case offered to the workers. With the introduction of a new approach which forces the re-writing of existing national legislation and systems and does not provide for a sufficient basis for the workers involvement, we fear that workers involvement will be weakened following the regulation.

Article 21 “Anonymous reporting of safety concerns” is the only article of the proposed regulation referring to the workers offshore. Although we welcome the article on whistleblowers, we like to point out that we find this only reference to the workers insufficient. Actively involved workers and trade unions react in a far better and more pro-active way than any whistle-blowing regime alone can achieve.

It is a sad fact and a lesson learned from the Deepwater Horizon accident that the workers were afraid to say “no” to the instructions they deemed wrong and worsening the situation. The lessons learned from previous accidents reflect that there were decisions taken for economic reasons in spite of the specific procedures, leading to fatalities. Workers need to be empowered to refuse the instructions that they deem to endanger lives and the environment.

The North Sea countries have a strong tripartite cooperation in the offshore sector. In an evolving business like this, it is a key to a successful and dynamic evolution of a scrutinized safety regime. It is however also lacking in the draft regulation.

Further, we fear that the regulation may lead to a more behavioural-focused safety system rather than a systematic approach where everyone is working together. This may result in a culture of fear and under-reporting of errors.

Our strong advice is to give workers and their representatives (unions) a clear role in health, safety and environment (HSE) systems at all levels, and to introduce a system of elected safety representatives, with a clear and protected mandate. The safety delegate system as in Scandinavia is a good example.

Choice of the legal act – Regulation vs. Directive

The ambitions of the proposal, i.e. establishing a high standard of a transparency and safety culture for offshore operations, are shared by the trade unions represented by IndustriAll - ETU. However, the proposed way of addressing and tackling the problem is not considered appropriate in order to achieve the objective.

The legislative nature of a regulation is that it becomes immediately enforceable in the national law in the EU member states without giving room for interpretation in line with accumulated good practices and high level standard regimes. Although introducing a safety regulation in countries where no safety regimes exist or, at a low level only, we fear that the proposed regulation could undermine the high standard safety regimes in other countries. We fear that some will make use of the regulation in order to diminish the obligations for companies where there were high safety standards established previously. The trade unions therefore prefer a directive to a regulation taking into account the advanced standards in the North Sea that already exist, while open for improvement and to set goals for the Mediterranean countries, where the standards are less developed and have to be raised to the same levels as up north.

We are in principle sceptical about the idea of minimum standards, as no workers, no environment, should have less protection than others. We strongly recommend minimum standards to be at the highest possible safety level. The objective of any legislative act addressing safety standards has to be, the achievement of equal standards for all workers working offshore across Europe, at the highest level.

A comprehensive worker/trade union consultation – almost completely absent from the proposal – should be at the heart of setting safety standards.

What is more, environmental and weather conditions vary across the European Union and therefore the highest standards should be set to take account of the roughest conditions.

The paragraphs dealing with oil spills and recovery are sensible and can be supported. Here a separate regulation could be more effective. The oil spill recovery technology is our joint responsibility. Neighbouring countries need to work together in this area. Moreover, the case of tanker spills would need to be addressed as well.

Also in this aspect, the idea of establishing a European oil safety authority is important with regard to inspection, consultation and technology dissemination. Such an authority could also offer relevant

training measures and ‘on the job training’, as well as inform the local communities about the safety of the activities to be taken place.

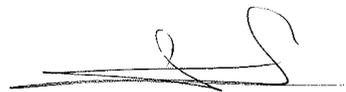
In conclusion, industry All - Europe:

- Supports the level of ambitions for “safety culture” and “transparency” in the proposed approach.
- Is of the opinion that all countries with offshore activities in Europe must pull together actively to create possibilities for a safe environment and safe workplaces.
- Wants the proposed regulation to be turned down, and a more thorough process including representatives for offshore workers initiated, evaluating both, whether there should be introduced any European legislation in the field, and how it should be done in order to maintain the qualities already present in some countries. In no way can IndustriAll – ETU accept that existing standards could be lowered.
- Prefers a directive instead of a regulation. This is to allow for different approaches and different dynamic solutions of equally high standards and with regard to established best practises.
- Demands a comprehensive worker/trade union consultation at the heart of setting safety standards.
- Supports and demands the creation of an empowered and government protected elected safety delegate-system, as in the Nordic model. Also, the proposal should be strengthened as regards the involvement of workers, ensuring a clear and stronger role for workers and their representatives in the trade unions, at all levels both in bi- and tripartite relations.
- Advises the EU to create its own offshore petroleum safety agency with a competent staff recruited from all European offshore states, to coordinate with national regulators.
- Demands the active involvement and consultation in the efforts to create safety for environment and employees in the offshore industry.

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