



ECSA

European Community Shipowners' Associations

EU Public Survey on Offshore Oil & Gas Equipment Impact of Compliance with EU Product Safety Legislation¹

ECSA RESPONSE

INTRODUCTION

The **European Community Shipowners' Associations (ECSA)** is the organisation representing the interests of the national shipowners' associations of EU Member States and Norway. ECSA's scope of interest includes the offshore shipping sector since various company members of the several national associations are active in the offshore supply vessel industry and/or engaged in drilling activities.

ECSA established in 2014 the first Sectorial Group, within its structure, to monitor EU policy related to the offshore shipping sector. The group which covers offshore vessels, ie. service/offshore supply vessels and Mobile Offshore Drilling Units (MODUs), succeeds the 'ECSA offshore working group' which was operational in 2012 and 2013, in the process leading to the adoption of the Safety of Offshore Oil and Gas Operations Directive².

ECSA notes with alarm the European Commission initiative to examine the extension of the scope of the EU product safety legislation³ by including equipment installed and used on Mobile Offshore Drilling Units (MODUs) and takes note of the Interim Report⁴ which identifies the equipment that could be included in the legislation.

ECSA notes that the ATEX, Machinery and Pressure Equipment Directives apply in general to equipment in offshore oil and gas facilities but exclude from their scope MODUs and equipment installed on such units. The reason for that exclusion is that MODUs are generally 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 (IMO MODU Code). However, the IMO MODU Code does not include requirements for industrial equipment used for drilling which are subject to national and international standards.

Although ECSA welcomes the European Commission initiative to explore ways to improve the safety record of MODUs, it seriously doubts that the extension of the scope of the abovementioned directives to cover MODUs is the appropriate tool to achieve such goal.

¹ <https://ec.europa.eu/eusurvey/runner/MODUOiLandGAs201>

² <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013L0030>

³ ATEX Directive, the Machinery Directive (MD) and the Pressure Equipment Directive (PED)

⁴ <http://bit.ly/1NPh5P>

ECSA COMMENTS

ECSA is of the opinion that the currently applicable standards are adequately proven in use and that the different standards applying globally cannot be demonstrated to be inferior to the EU product safety legislation. Although accidents do occur, these accidents cannot be considered as evidence of systemic defects in global standards that could be remedied by these directives. Therefore, it is considered questionable whether the inclusion of MODUs within the scope of ATEX, MD and PED Directives is likely to have significant impact on the safety level on board.

Drilling contractors are at all times striving to deliver their services to their clients with the highest achievable safety level, since a contractor with a poor record would not survive in the sector. Also, existing global standards have a track record in the field that allows contractors to assess the reliability of equipment and components based on historical data. The same robust basis is not available for equipment in use on MODUs subject to the three directives.

The equipment for MODUs is not at all times identical to the equipment for fixed or onshore installations. There are also differences in the operations conducted, the risk profile/exposure and the likelihood of fires and explosions and therefore differences in which standards are appropriate. The application of the directives may be justified for installations that are fixed, but it is not necessarily justified for installations that are rarely encountering hydrocarbons by nature of the business of drilling. In reality, fixed platforms have hydrocarbons on deck for almost 365 days per year while MODUs are exposed to hydrocarbons for less than 20 days per year.

In addition, comparing accidents in fixed platforms and MODUs on the basis of figures is not a like-for-like comparison; it is important to look at the types of accidents as well as making the distinction between occupational accidents and major accidents (as per Offshore Safety Directive definition). On top of that, if the three directives do provide a higher safety level then it calls for the question of why there are not significantly less accidents occurring in fixed platforms than on MODUs.

Additionally, the Directives are generic, and hence not tailored to cover the safety needs of the equipment installed in MODUs. These standards may in many cases be appropriate for the prevention of occupational accidents, but that does not make them the ideal tools to prevent major accidents. For example, application of a generic standard to specific safety equipment, like the application of PED to Blowout preventer equipment (BOPE), where global specific standards are in place could well prove to be counterproductive, and we hence believe that other options should be explored.

All in all, ECSA supports that the exclusion of MODU from the scope of these Directives as the exclusion does not create any safety problem, since the international and national standards applicable warrant an at least equivalent level of safety. ECSA furthermore believes that modifying the current situation could potentially have a detrimental effects on a level playing field in terms of competition affecting all in the supply chain; MODU equipment manufacturers/suppliers, owners and operators. More precisely, the following implications should be noted:

1. Market access and mobility

ECSA stresses that the majority of MODU owners are not required to comply with the EU Product Safety Legislation since MODUs operate globally and these EU directives are not a globally accepted standard. Therefore, such extension could be detrimental for market access and mobility within the sector.

The extension of the EU product safety Directives to MODU equipment would create obstacles to free trade for European drilling units and significant issues on the supply chain side for both owners and operators. This could potentially introduce a competitive disadvantage for European MODU owners since it limits the mobility of MODUs.

In addition, it could constitute an obstacle to EU manufacturers' options in having to adopt double certification to sell their products outside the EU, such as in places where the directives are not accepted as a standard. The US authorities, for instance, generally do not consider all EU directives of an equivalent level of safety (given that self-certification is allowed within ATEX) and require users to apply a global standard.

2. Cost and resources

ECSA welcomes the fact that the Commission wants to assess the potential costs, on the basis of quantitative information of costs and benefits, if the extension of the EU product safety legislation to that equipment would take place.

ECSA is not representing the manufacturers' industry therefore is not in the position to evaluate and quantify the actual increase in the equipment cost given an extension of the scope of the EU Directives. However, as a representative of MODU owners/operators, ECSA is reassured that the compliance costs, direct and indirect, that need to be considered for design and certification can be substantial. Increased costs include, inter alia, the need for double certification or recertification when entering the EU sector. Additional cost may be required for retrofit, and downtime given retrofits. Such increase in the cost could lead to detrimental impacts for the whole sector; loss of business, decline of businesses and inevitable loss of jobs.

ECSA is of the opinion that since the aim of this initiative is to increase the safety levels in the industry, resources could be invested in more prudent manners. In addition, putting the industry onto a "compliance" mindset as opposed to an "ALARP" mindset could have adverse effects since many companies, in their effort to comply, may eventually choose compliant equipment but not necessarily designed to operate in the safest and most optimal way.

3. Supply shortages

Since double certification appears to be the only feasible course of action (it would not be prudent to have to refurbish equipment whenever moving in or out of EU sectors), this and additional documentation requirements may lead to backlogs, especially on complex, long lead items (long lead times already being a concern for our segment of

the industry). This in turn may cause delays in campaigns and downtime for refurbishments.

Also, some equipment vendors that do not have the EU as a core market may become subject to delays given the process required to understand EU Directive requirements, or – worst case – abandon marketing their products in the EU market.

CONCLUSION

ECSA believes that the currently applicable standards are by all means adequate, and also, the product safety directives cannot stand alone and replace other existing normative references. The current national and international standards have been proven in service to provide robust levels of safety. Drilling contractors are currently pursuing an ALARP approach, where governance and responsibility is required to rest with the commercial party that incurs benefit from the oil and gas activity, and not with the Authorities, and reintroducing requirements which can to some extent be considered prescriptive may push the industry back to a mindset of compliance rather than safety.

It is also important to mention that international standards are constantly being developed and modified on a running basis, and notably so after the Macondo incident.

We believe that an excellent vehicle for the promotion and improvement of offshore safety has been created with the Offshore Safety Directive (OSD) as a prudent, risk based approach within the industry, as it has a distinct focus on major accident prevention and the responsible management of Safety and Environmentally critical elements and systems on board.

As the focus of the Offshore Safety Directive is specifically aimed at the risk picture offshore, and the safety systems specific to our type of operation (as opposed to the generic Product Safety Directives (PSDs)), we believe that a general reduction of risk levels offshore is much more likely to be achieved through the OSD than the PSDs.

Although the European MODU owners welcome the European Commission's initiatives to improve the safety record of MODUs, it doubts that the extension of the EU Product safety legislation to cover MODUs is the optimal way to reach this objective.

Brussels, 24 September 2015

The European Community Shipowners' Associations (ECSA), formed in 1965, comprises the national shipowners' associations of the EU and Norway. ECSA aims at promoting the interests of European shipping so that industry can best serve European and international trade and commerce in a competitive and free business environment, to the benefit of both shippers and consumers. The European Economic Area maintains its very prominent position with a controlled fleet of 40% of the global commercial fleet.

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