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International Working Group regarding Offshore Activities

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## **QUESTIONNAIRE - OFFSHORE ACTIVITIES - POLLUTION LIABILITY AND RELATED ISSUES**

### **DENMARK**

Please note that the following response does not include Greenland or the Faroe Islands.

#### **1. QUESTION ONE**

*"Is your country party to any of the instruments listed under 1 to 3 above or, in the case of OPOL, are the offshore operators in your country parties to that agreement? If so please advise whether issues of liability and compensation are adequately addressed by the instrument itself or by any subsidiary national legislation."*

Denmark is party to the OSPAR Convention and the OPOL Agreement.

#### **1.1 OSPAR**

The OSPAR Convention's guidelines on harmonisation of monitoring, reporting and assessment of the impact of the marine environment as a result of discharge from platforms are implemented into the Danish Act of Marine Environmental Protection by an amendment act.<sup>1</sup> Consequently, the substance of the OSPAR Convention is addressed by national legislation instead of the convention itself.

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<sup>1</sup> Danish Act no. 963 of 2013-07-03. See further under question 3 below.

1.2 **OPOL**

In relation to the OPOL Agreement, it cannot be determined whether Danish operators (or which Danish operators) are parties to the agreement, since this is not public information. There is no requirement by the government for the operators to be a party to the OPOL Agreement.

2. **QUESTION TWO**

N/A.

3. **QUESTION THREE**

*"Please identify the national regulations which are applied to offshore oil and gas exploration and exploitation operations by the authorities in your country."*

Danish regulations regarding this topic are listed arbitrarily below.

3.1 **The Danish Act on the Use of the Danish Subsoil<sup>2</sup>**

The Act governs pilot studies, exploration and extraction of natural resources in Danish jurisdiction, including the Danish exclusive economic zone and Danish continental shelf, cf. art. 1 (2) and art. 2.

The requirements on license as to pilot studies, exploration and extraction will not be elaborated further, since the focus is on pollution and liability.

However, according to art. 35, the owner of the license has to compensate any damage occurring from the use of the license, even if the damage was not caused by negligence. The article does not define the type of damage that is covered. This means that the article covers *any* possible damage arising from the exploration and exploitation, including personal injury. The compensation and responsibility is without any limitation except if the injured party has acted gross negligently.

3.2 **The Danish Act on Marine Environmental Protection<sup>3</sup>**

The Act governs any platform located in Danish territorial waters or on the Danish continental shelf, cf. article 2 (3), and any pipelines in the same area, cf. art. 2 (4).

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<sup>2</sup> Danish Act no. 960 of 2011-09-13

<sup>3</sup> Danish Act no. 963 of 2013-07-03

In case of any oil pollution or chemical pollution of the sea caused by platforms or pipelines, the owner (or the party responsible for the operation of the platform or pipeline) must immediately take steps to reduce the pollution, cf. art. 34 a (1).

The Danish Minister of Environment (the ministry) is furthermore able to give mandatory orders as to specific measures by the owner (or the party responsible for operation) taken to control the pollution, cf. art. 34 a (2).

If the platform is not able to control the pollution, it is possible to get assistance from the Danish navy through a cooperation agreement between the Danish navy, the owners of the platforms and the operators of the platforms. Any costs in this regard are imposed on the owner, cf. art. 44 (1).

The Danish Minister of Environment (the ministry) is moreover able to give mandatory orders specifying the team and materials the owner (or the party responsible for the operation) in general must have in case of accidents on the platform or pipeline, cf. art. 34 a (3).

Non-compliance with the mandatory orders from the Minister cf. art. 34 (2) and (3) is fined, cf. art. 59 (1) (3).

Further, the law gives access for the Danish Minister of Environment (the ministry) and the police to investigate platforms without a court order to the extent needed in order to prevent or control pollution of the sea, cf. art. 42 (1), cf. art. 42 (2).

### 3.3 **The Statutory Order on Discharge of Substances and Materials from Certain Offshore Installations in the Sea<sup>4</sup>**

The Statutory Order governs the discharge of substances and materials from any offshore installation located in Danish territorial waters or on the Danish continental shelf, cf. art. 4.

It is in general prohibited to discharge anything into the sea without a license originating from the exploration, drilling or exploitation. This discharge could be for example drilling mud, drilling chips, chemicals, etc. The Order governs specific requirements as to the content of application letters for discharge, including information on the marine ecology, etc., cf. art 5-9. On this basis, the Agency considers the application.

The license to discharge may at any time be recalled if the Statutory Order or conditions in the license are not observed. Likewise it may be recalled if the application leading to a license contains untrue information, or if substantial conditions change significantly, cf. art. 15 (2).

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<sup>4</sup> Statutory Order no. 394 of 1984-07-17

Any discharge of substances and materials from offshore installation without permission from the Danish Environmental Protection Agency regardless of conditions in the license, etc. are fined or punished with imprisonment of up to one year, cf. art. 16, even if it did not occur by negligence, cf. art. 17.

3.4 **The Statutory Order on Prevention of Atmospheric Pollution from Ships and Platforms<sup>5</sup>**

The Statutory Order prohibits any wilful discharge of ozone-depleting substances from platforms, even if discharge happens as part of maintenance, repair, etc., cf. art. 2 (1). Only minimum discharge of recyclable ozone-depleting substances, which cannot be prevented, is allowed, cf. art. 2 (2). An ozone-depleting substance has to be understood as defined in art. 1 (4) of the Montreal Protocol of 1987.

The Statutory Order further prohibits burning of e.g. oil sludge, waste, etc. with few exceptions, and the Statutory Order also settles fines.

Will not be elaborated further.

3.5 **The Danish Act on Safety etc. in relation to Offshore Installations for Exploration, Production and Transportation of Hydrocarbons<sup>6</sup>**

The Act governs the physical safety, meaning the safety in relation to the construction of offshore installations as well as the safety for employees working on offshore installations. It governs project planning, running, maintenance, etc. of offshore installations.

Will not be elaborated further.

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<sup>5</sup> Statutory Order no. 508 of 2005-06-18

<sup>6</sup> Danish Act no. 520 of 2013-05-13