HAZARDOUS ACTIVITIES AND LIABILITY ISSUES FROM REFINING AND CHEMICALS INDUSTRY PERSPECTIVE

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OECD/NEA
10 December 2013
INTRODUCTION: PROBLEMATICS TOTAL HAS TO FACE

- Total Refining and Chemicals: a company exposed to major safety and environmental risks

- The European legal framework: no really derogatory civil liability regime for accident/incident generated by hazardous industrial activities

- An European liability directive related to environmental issues : a specific system

- But a very national issue most influenced by criminal proceedings
LIABILITY FOR DAMAGE TO THE ENVIRONMENT: THE EUROPEAN DIRECTIVE ON ENVIRONMENTAL LIABILITY

- In France, the Law was adopted on 1 August 2008
- A general administrative liability regime against the operator
- Only for hazardous activities listed
- Purpose of this regime: not to repair the prejudice of third parties but to regulate the operator’s activities
A FRENCH EXAMPLE: THE DONGES POLLUTION MARCH 2008

- Pollution of the Loire coming from Donges refinery

- An anticipated application of the French law adopted on 1 August 2008 relating to environmental liability

- The « Préfet » imposed to the operator to conduct several studies on the impacts of the pollution by decree, but no decrees on the payment of the remediation

- Application of the general civil liability regime for the indemnisation of third parties: Judgment on 17 January 2012, ordered to pay damages
THE LIABILITY REGIME FOR HAZARDOUS ACTIVITIES

- General civil liability regime: fault or no-fault liability?

- Criminal proceedings: because environmental regulations and hazardous activities policies impose criminal compliance

- Fines and damages in case of industrial accident

- Corporate or/and individual liability
AZF ACCIDENT

- Toulouse explosion 21 September 2001 inside the Grande Paroisse chemical plant

- Fatal consequences: death of 31 people, many others injured, significant damage to property

- 2006: Agreement GPN/City of Toulouse

- The criminal proceeding: Toulouse Court of Appeal on 24 September 2012
  - Convicted the former Plant manager and Grande Paroisse

- Compensation mechanisms for victims: 2,3 Euros billion paid
BUNCEFIELD ACCIDENT

- December 11, 2005: explosions followed by a major fire at Oil Storage Depot in Buncefield operated by a Total UK’s subsidiary

- Consequences: minor injuries and property damages

- Court’s decision of 20 March 2009 declared Total UK solely liable for indemnifying victims

- Criminal judgment on 6 July 2010 by which Total UK was fined £3.6 million
INSURANCES AND RISK MANAGEMENT

● Property damage and business interruption: amounts insured vary site by site

● Third-party liability insurance in 2012 for Total Group
  - Caped at $850 million for onshore
  - Covered any liability including potential accident environmental liabilities

● Sufficient insurance coverage to cover « normal risks »

● In case of a major environmental disaster or industrial accident?
IN CONCLUSION

- Refining and chemicals industry: a more and more exposed sector
- To increasing costs in case of accident
- With multi-third parties implicated
- And our corporate social responsibility…

- Thank you for your attention!