

HAZARDOUS ACTIVITIES AND LIABILITY ISSUES FROM REFINING AND CHEMICALS INDUSTRY PERSPECTIVE

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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

- The European Directive related to the Environmental Liability of 21 April 2004, No. 2004/35/CE
- 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 !