

PAJ Oil Spill International Symposium 2004

The new Environmental Liability Directive for Europe and its relationship to the Marine Oil Conventions

- incl. Issues of Water Pollution to Marine Environment in Europe -

Tokyo, 26 and 27 February 2004

**Dr. Franz-Martin Brueggemann
- Executive Officer -**

European Petroleum Industry Association

EUROPIA

- **Formed in 1989 as Association of Companies.**
- **Represents interests of EU oil refining, distribution and marketing industry to the EU Institutions.**
- **Covers 95% EU refining capacity.**
- **Members present in all 15 Member States of the European Union (EU), in Norway, Switzerland and in the ten additional Member States from May 2004 on.**
- **Small Secretariat based in Brussels.**
 - **Independent Secretary General.**
 - **Executive staff on secondment from Member Companies.**

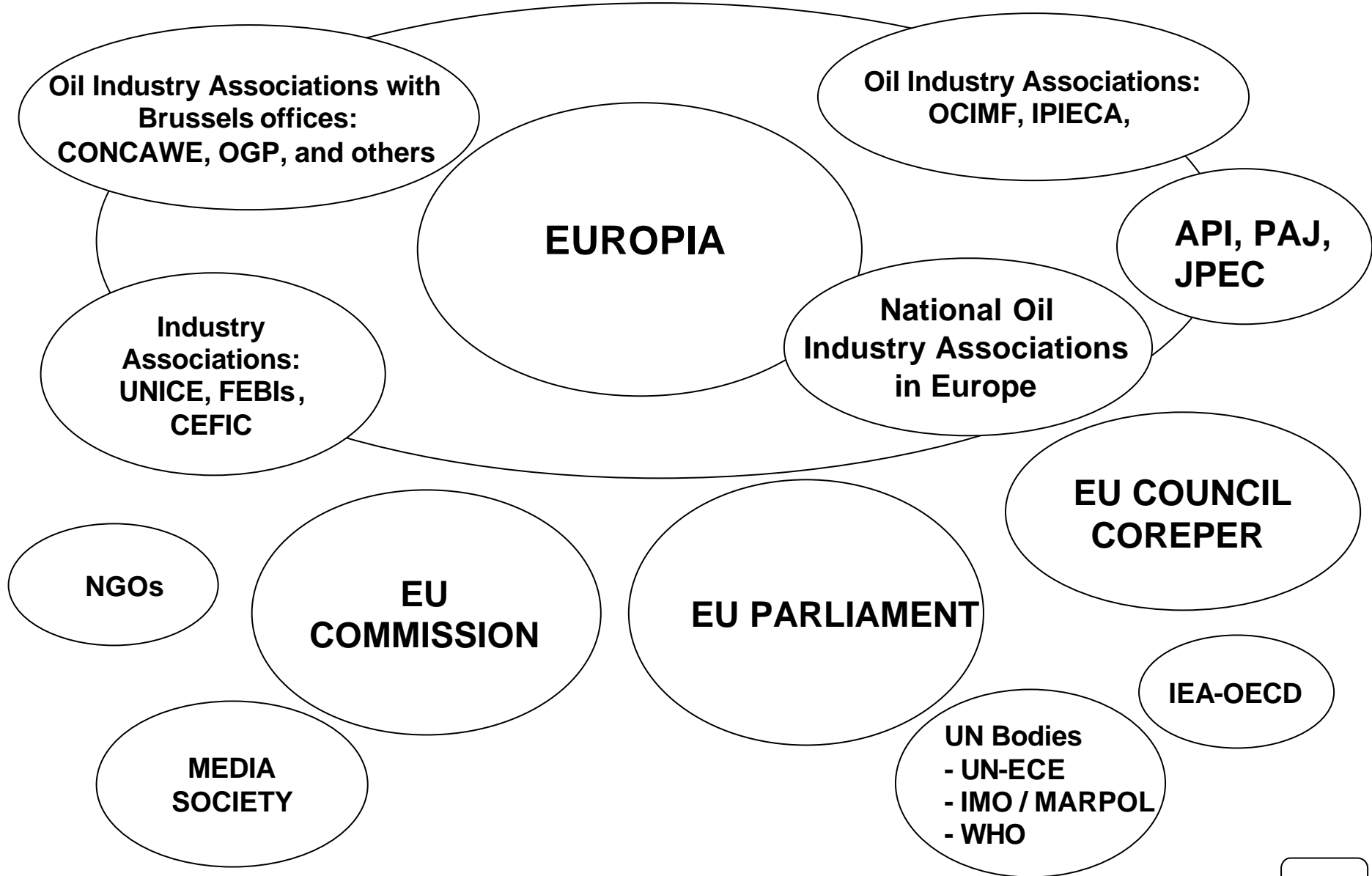
EUROPIA Member Companies

- BP
- Cepsa
- ChevronTexaco
- ENI
- ERG
- ExxonMobil
- Fortum
- Hellenic Petroleum
- Kuwait Petroleum International
- MOL*
- OMV
- Petrogal
- Petrol d.d.*
- PhillipsConoco
- PKN-Orlen*
- Repsol-YPF
- Saras
- Shell
- Statoil
- Total (formerly: TotalFinaElf)

* = Observer Members

Industry consolidation has reduced membership numbers but not the size and scope of the activities covered by EUROPIA.

EUROPIA - Key Stakeholders

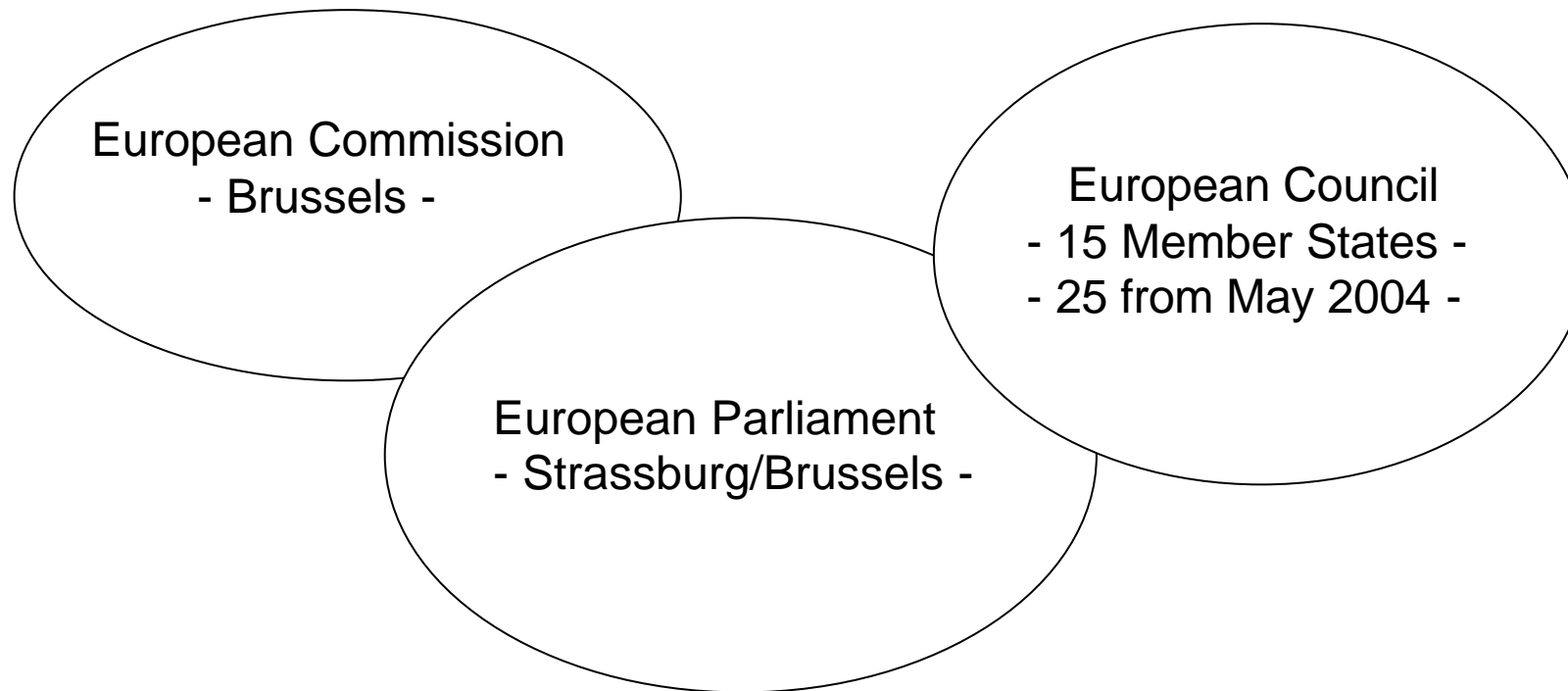


EUROPIA priorities

- | | |
|---|---|
| <ul style="list-style-type: none">• Emissions Trading (JI CDM Linking Directive; NAP & EMR)• CAFÉ (Clean Air for Europe) / Air Quality• Fuels Directive Review• UN Sulphur Reduction Initiative• EU Climate Change Policy• REACH (Registration, Evaluation and Authorisation of Chemicals)• Road Fuels / Alternative Fuels• PAHs in Oil Products• Environmental Liability | <ul style="list-style-type: none">• Energy Tax Issues / Diesel Taxation• Energy Efficiency and Services• Sulphur in Marine Fuels• Air Quality Directives• IPPC• Competitiveness• Seveso II• Enlargement Transition• Waste Protection Framework/ Strategy• Aarhus Convention• others |
|---|---|

High priorities in 2003: Security of Supply/Strategic Stocks and Environmental Liability.

Legislative Process in the EU



Important pieces of legislation, proposed by the Commission, require approval by Parliament and Council (i.e. Member States) and are sometimes modified significantly during the approval process.

Environmental Liability Directive versus CLC, Fund Convention, Bunker Oil and HNS Convention

- **European Commission Proposal 2002:**
 - Directive not to apply if liability for an incident is regulated by one of the four Conventions mentioned above.
- **European Parliament after fierce debate in 1st Reading:**
 - Strong minority (Socialists, Greens) for additional application of the Directive if providing stricter liability.
 - Majority for the application of the EU Directive only if relevant Convention not in effect.

Environmental Liability Directive and Conventions

- Outcome after fierce debate -

- Text not yet adopted but present wording will not be modified in the last steps of the legislative process.
- European Council and European Parliament after 2nd Reading:
 - No application of the EU Directive if incident falls within the scope of CLC, Fund Convention, Bunker Oil or HNS Convention

and if

 - relevant Convention is in force in the Member State concerned.
- European Parliament majority for amendment as to LLMC and CLNI.

Environmental Liability Directive and Conventions

- Future Steps which will be adopted -

- Member States to report to Commission by 2013.
- Commission to report to EU Parliament and Council before 2014 on:
 - experience gained within relevant international fora (IMO)
 - instruments in force, implemented by Member States or modified
 - thereby taking account of all relevant instances of environmental damage resulting from such activities and the remedial action taken and
 - considering the relationship between shipowners' liability and oil receivers' contribution.

Report to include any appropriate proposals for amendment!

Environmental Liability Directive

- Scope of Application versus Conventions -

- **Incidents falling under CLC and Fund Convention;**
 - **In effect in all EU 15 Member States and accession countries with access to sea (Estonia still to ratify).**
 - **Therefore: Directive will not apply.**

- **Incidents falling under HNS Convention and Bunker Oil Convention:**
 - **EU is clearing the way for Member States to ratify.**
 - **Member States to put Conventions into force (as to HNS before 30 June 2006).**

Where HNS and Bunker Oil Conventions are not in force, the regime of the new Directive will be applicable!

Impact on incidents in the scope of HNS and Bunker Oil Convention

- National implementation of Environmental Liability Directive required by mid 2007 the latest.
- From then on where relevant Convention is not in force:
 - Liability for environmental damage caused by emissions, events, incidents after mid 2007.
- Damages covered by new Directive:
 - Damage to protected species and natural habitats (biodiversity).
 - Damage to water and land.
 - Not covered: damage to health or property, lost revenues, etc.
 - Public law regime i.e. restoration in the public interest.

***Implementation of HNS and Bunker Oil Convention
before 2007 would significantly improve the situation!***

Environmental Liability Directive

- Water pollution to Marine Environment -

- Annexes I and II of the Directive provide an European wide framework of definitions:
 - restoration back to baseline condition.
 - any significant risk to human health to be removed.
 - restoration of damaged natural resources.
 - restore, rehabilitate or replace damaged natural resources and/or impaired services:
 - Biodiversity: not the economic value (e.g. for fishing industry) but the services of a resource to another resource or to the public are to be restored.
 - Transformation into national law can lead to significant differences.

Some Conclusions

- **No unfair application of two different regimes on the same incident via the new Directive.**
- **Any non-ratification or inefficiencies of Conventions will lead to a new debate about stricter rules.**
- **Present IMO discussions of utmost importance.**
- **EUROPIA to support OCIMF for their IMO debates.**
- **Any support by PAJ and Japanese Industry highly welcome.**

Last Slide

Thank you.