

Report of the IWG on Offshore Activities.

In July 2013 a Questionnaire was sent to all NMLAs designed to ascertain which states were parties to international, regional, bi-lateral agreements or had national legislation regarding liability and compensation for pollution caused by the exploration for and exploitation of offshore oil and gas. As a matter of courtesy a draft of the Questionnaire was sent to the Indonesian Government (which was initially responsible for raising this issue at IMO) for comments and approval. No response was received.

18 NMLAs have responded to date and, in addition, the IWG has received a copy of a current bi-lateral agreement between the USA and Mexico regarding the exploitation of hydrocarbon reserves in the Gulf of Mexico and of the Norwegian Petroleum Act. The latter will be a useful guide should it be decided that the way forward is to encourage the adoption of standard comprehensive national laws relating to liability and compensation. All these documents, together with a summary of the Responses to the CMI Questionnaire, are now on the CMI website.

The most significant recent developments have been the publication of two reports. In February of an IDDRI Study entitled *“Seeing beyond the horizon of deepwater oil and gas: strengthening the international regulation of offshore exploration and exploitation”*. This document contains a comprehensive review of existing international, multilateral and bilateral agreements on the regulation of offshore activities and, on the face of it, achieves all that the CMI set out to do by sending out its circular. In addition the European Commission has now published a Report prepared by Maastricht University entitled *“Civil Liability and Financial Security for Offshore Oil and Gas Activities”*. This Report recommends that the EU should take the initiative in establishing an international agreement dealing with the problem of spills from offshore activities though it recognises that there is no real prospect of such an agreement coming into existence in the foreseeable future as there appears to be an absence of the necessary political will. The report also suggests that governments should encourage “risk pooling” between members of the drilling industry to create a broad based industry funded compensation scheme. The report suggests that OPOL type agreements amongst drilling companies operating in the same geographical area might also serve as an interim solution.

As far as the IMO Legal Committee is concerned, the topic of pollution produced by offshore activities with particular reference to transboundary

pollution has not been a main agenda item since the IMO decided that it did not warrant an international agreement. Since then it has appeared under *Any other Business*. At the 101st Meeting of the IMO Legal Committee in the week beginning April 28 the matter was reviewed. Two papers were submitted. LEG101/11 was a note from the Secretariat and contained a list of international and regional instruments relating to transboundary pollution. This list had been developed from information submitted by IMO member states. The second paper (LEG 101/1) was submitted by Indonesia and confirmed its on-going determination to develop guidance or model agreements on transboundary pollution. The Indonesian Ministry of Transport is creating a web-based discussion forum so that states can exchange ideas on this topic. This website should be up and running by the end of 2014 and the CMI will make available the material generated by its own inquiries to be posted.

The CMI Assembly meeting in Hamburg it was decided that, in conjunction with the Istanbul Colloquium to be held in Istanbul in June 2015, the CMI would organise a Seminar on the subject of Offshore Activities in conjunction with the Scandinavian Institute of Maritime Law and the Istanbul Commerce University (Faculty of Law). The intention is to invite speakers representing the industry, insurers and those likely to be affected by spills from offshore activities in the hope of achieving a greater understanding of the issues and of the possible solutions.

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