

International Working Group on Offshore activities - pollution liability and related issues.

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The International Working Group has prepared and circulated the attached Questionnaire which is largely self explanatory. Before the Questionnaire was circulated efforts were made to contact the individuals within the Indonesian Government who have been responsible for bringing this problem to the attention of the IMO Legal Committee and for pushing forward with efforts to introduce on an international or regional regime to cover oil pollution caused by offshore exploration for or exploitation of oil and gas. We had hoped that they would approve the terms of the Questionnaire or suggest changes. Sadly, despite several reminders, no response has been received.

So far we have received response to the Questionnaire from Senegal, Brazil, Italy, Malta and the Netherlands. The response from Dr. Fall in Senegal draws our attention to the 1981 Abidjan Convention and its 1985 Protocol. The full title of this U.N. Convention is; Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region. The Protocol is entitled Protocol concerning Co-operation in Combating Pollution in Cases of Emergency. These instruments will need study to determine whether they might be a useful basis for development of other regional agreements.

As far as the oil exploration/exploitation industry is concerned the IWG has approached IMCA (International Marine contractors Association), OGP (International Association of Oil and Gas Producers) and the secretariat of OPOL (Offshore Pollution Liability Agreement). IMCA was responsive but pointed out that the Legal Committee had itself recognised that pollution from offshore installations was outside the terms of the IMO Strategic Plan and, unless the Plan were amended, the topic could not be considered by the Committee. They also made it clear (as they did at various Legal Committee meetings) that they and their colleagues in the industry do not think that the Legal Committee was the right body to be looking at regulation of the offshore industries. IMCA did, however, say that they and others in the industry were “comfortable with the

Legal committee acting as a forum for information exchange” in exploring the development of regional or bi-lateral agreements.

OPOL have also been helpful. As is known there are 9 “designated states” in which the Agreement applies. They explain however that the application varies from one designated state to another. For example the Agreement applies in Norway to one supply pipeline only. The rest of the offshore operations in respect of which Norway issues licences are subject to a local liability and compensation regime which ensures that there is an absolute liability for pollution. Norway also requires that one of the licencees is a company of substance and is subject to the jurisdiction of the Norwegian courts.

OPOL also advised that the European Commission has recently received from Maastricht University a study of financial security in relation to offshore activities. This study is not available to the public yet but may, in due course, form the basis of an EU initiative on liability and compensation..

Clearly what the industry fears and would strongly resist is any attempt to create an international regime to regulate offshore activities including issues of liability and compensation for pollution . We know that the industry feels that regulation of offshore operations should be the sole responsibility of the government agencies in each country who issue exploration and exploitation licences.

So, this is very much work in progress.

Patrick Griggs.
IWG Chairman.