



Dear President,

The Brazilian Maritime Law Association comes to present the answers to the Questionnaire on Offshore Activities – Pollution Liability and Related Issues attached to your letter dated 19 July 2013.

The questions:

1. Is your country a party to any of the instruments listed under 1 to 3 above or, in the case of OPOL, are the offshore operators in your country parties to that agreement? If so please advise whether issues of liability and compensation are adequately addressed by the instrument itself or by any subsidiary national legislation.

Response: “Brazil is not a party to any of the instruments listed under 1 to 3 above. In the case of OPOL, we do not have any information on offshore operators in Brazil as parties to the agreement.”

2. If your country is not a party to any of the instruments listed under 1 to 3 above, is it party to any other form of regional or bilateral agreements which address the issues of liability and compensation? May we please have details of any such agreement.

Response: “Brazil is not a party to any regional or bilateral agreements which address the issues of liability and compensation.”

3. Please identify the national regulations which are applied to offshore oil and gas exploration and exploitation operations by the authorities in your country.

Response: “The most important national regulation which is applied to offshore oil and gas exploration and exploitation operations is listed below.

- Federal Constitution of 1988: (i) establishes the monopoly of petroleum exploration, exploitation and maritime transportation activities to the federal government, as well as the possibility to contract public and private entities to perform such activities in accordance with the applicable Law, and (ii) provides the general principles of environmental conservation.

- Law N° 6,938/81: National Environmental Policy – defines polluters and provides their joint and objective environmental liability for damages to the environment.

- Civil Code (Law N° 10,406/2002): provides that those who cause damages to another party shall be liable for the appropriate compensation.



- Law N° 9,537/1997: deal with safety on water traffic and determine powers for authorities to act towards the prevention of pollution.

- Law N° 9,605/1998 and Decree N° 6,514/2008: provides criminal and administrative penalties for actions damaging the environment.

- Law N° 9,966/2000: provides matters related to the prevention, control and inspection of pollution caused by oil or other hazardous substances in national waters. This Law also sets forth the responsibility of the players to develop individual recovery plans, as well as collective recovery plans (NB. The rules for collective recovery plans still lack appropriate regulation).

- Laws N° 9,478/1997 and N° 12,351/2010: provides the rules applicable to petroleum and natural gas exploration and exploitation in the country (both onshore and offshore).

- Complementary Law N° 140/2011: deals with environmental licensing.”

Should you need further details on any of the referred legislation, please let us know.

Best regards,

Artur R. Carbone  
President