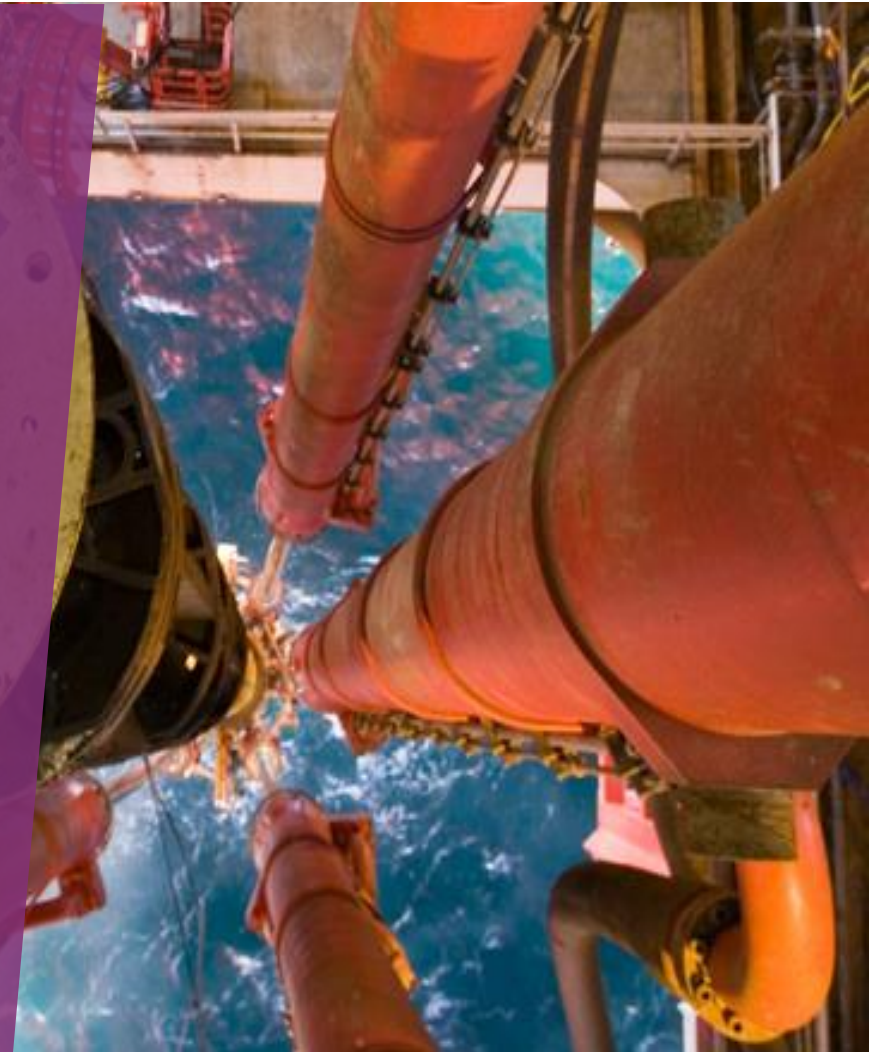




International
Association
of Oil & Gas
Producers

Liability, financial security and handling of compensation claims

Stakeholder Consultation
workshop, Brussels,
19th September 2018



IOGP's Guiding Principles on this topic

1. Focus on Loss prevention
2. Clear accountability - Preserve 'polluter pays' principle
3. Clear and exposure based financial security requirements
4. Flexibility – ability to choose between financial security instruments
5. Proportionate obligations

**Fit for purpose and cost effective
regulatory requirements**



Legal liability for and compensation of pure economic losses

1. Compensation of pure economic loss is not “normal” or “traditional”
 - Unlimited compensation for all pure economic losses not available
 - Where strict liability for pure economic loss exists such liability is limited by a financial cap or by specific nature of the claims which are accepted
 - Macondo is not an appropriate benchmark – exceptional case
2. Limiting liability is a practical necessity; well-defined liability parameters are essential to prevent excessive liability (“floodgates issue”)
3. No history in Europe of inadequate compensation or handling of offshore pollution claims
4. No compelling case to over-ride existing longstanding liability regimes
5. Each Member State best positioned to assess the “gaps” in its current legal/regulatory framework

Demonstration of Financial Responsibility (FR)

1. Article 4: financial capability – stipulates the obligation for exposure based financial security requirements
2. Extensive scientific modelling done to determine exposures
3. Variety of adequate financial instruments exists that can cover legal liability obligations
4. Insurance market capacity sufficient to cover credible worst case
5. financial security mechanisms must not undermine loss prevention efforts
6. Robust regimes have been developed and implemented (e.g. in the UK or Denmark)

Example: UK Financial Responsibility Requirements

- Detailed exposure based FR requirements since 1/1/2013
- Updated Guidelines issued end Feb 2018 considering latest oil spill cost modelling results
- Demonstration of FR for the costs of:
 - bringing the well under control: ~ USD 100 – 300mlm
 - Clean-up and compensation: up to USD 1.2bn for high risk wells
- Objective yet simple method to determine the level FR
- Various financial instruments acceptable; OPOL being one of the building blocks of the UK FR system
- Confirmation of swift access to claims handling services
- Informs new obligations in other jurisdictions

Handling of compensation claims

1. No indication that historic incidents in Europe were not adequately handled
2. Brussels I and Rome II regulations help prevent differences in national regimes from disadvantaging claims from other EU Member States
3. Each licensee should have arrangements in place for the prompt and adequate handling of compensation claims

Conclusions and proposed way forward

1. No history in Europe of inadequate compensation or handling of offshore pollution claims
2. No compelling case to over-ride existing longstanding liability regimes
3. Ensure regulations remain part of a competitive landscape
4. Robust, fit for purpose FR regimes have been implemented
5. Focus on assessing delivery against objectives and compliance with the requirements stated in the OSD
6. O&G producers support local regulators to determine obligations



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