



Position Paper

From IUMI - Secretary General's Office

Subject IUMI comments to proposed EC Regulation with respect to Offshore Energy Liability

Date 24 September 2012

IUMI notes the policy paper and "key messages" presented by Insurance Europe most recently at a meeting with EU policymakers on 18 September 2012 and would like to add its support for the views being expressed. IUMI welcomes any initiative which improves safety and reduces the risk of loss. However, IUMI believes much more work needs to be done before the proposals go any further particularly in the areas of cost-benefit analysis and insurance market capabilities.

- 1) The EU is understandably concerned by the risk of a major offshore oil or gas accident occurring in EU waters but it is arguable whether changing legislation and regulatory and industry practices would effectively reduce risks throughout the EU. It is worth recalling that there has been no serious oil pollution incident from offshore activity in the last 25 years in the EU.
- 2) Whilst under existing liability regimes, the responsible party may not always be clearly identifiable, able or liable to pay all the costs to remedy the damage it has caused, this would be true under any regime.
- 3) The operator needs to be able to choose how best to protect itself. This may or may not include traditional insurance protection.
- 4) Insurance even when purchased cannot provide a complete solution which satisfies all parties involved and is subject to terms and conditions, including exclusions, which reflect the difference between the price for the original risk and the amount the client is willing to pay.
- 5) Oil companies are very sophisticated in assessing how much cover they need and the largest and financially strongest can meet the costs of an incident from their own resource (self-insurance).
- 6) The insurance market for energy risks is complex, matching the complex needs of the sector. Most energy contracts are shared by a panel of underwriters as the liabilities need to be spread to be insurable. What coverage there is comes at a price.
- 7) The offshore liability insurance market is global and may be reluctant to commit capital to support a mandatory territory specific security measure within the EU.
- 8) A voluntary financial security system is likely to be most effective. It would be better to enhance the management of offshore oil risks, rather than to mandate insurance cover for them as cover does not in itself improve behaviours.

9) Biodiversity damages offshore are not quantifiable and thus not easily insurable. There is, so far, no market available.

10) IUMI, like others, is not persuaded that the risk reduction in average monetary terms of circa €279m p.a. has been sufficiently clearly established. The data the EU provides is unsourced yet specific and at the same time uses wide ranges as in the estimated average annual economic loss from offshore oil and gas accidents in the EU "from €205m p.a. to €915m".

11) Extrapolating other world losses does not necessarily map well into an EU context.

12) In any offshore operation there are many different parties, with complex legal responsibilities to third parties and to each other.

13) Not every operator in the energy industry is a substantial company able to meet any claim from its own resources or necessarily able to buy sufficient insurance to protect themselves.

14) Overall policy limits do not translate to coverage for all perils to that limit. That will depend on the specific terms and condition agreed between the Insured and Insurers.

15) It is not clear where the EU believes that operators have not been able to respond effectively to claims with a combination of their own and insurance resources.

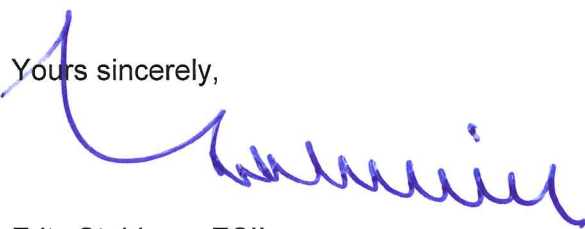
16) What consideration has been given to the possibility of Flag State Administrations sharing responsibility on a pooling basis?

17) The interaction between Convention(s) (including those dealing with the right to limit liability) and the proposed legislation would need to be properly balanced.

18) Should the EU adopt an American style OPA/OCSLA system, it would almost inevitably increase the costs of doing business in the offshore sector (due to increased premium levels) and very probably reduce available capacity as well as pricing out the smaller operators.

IUMI welcomes any future dialogue or request for industry input with respect to the above.

Yours sincerely,



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Secretary General