Thursday, June 4, 2020

Resources Sectors Regulation
Australian Government Productivity Commission
GPO 1428
Canberra
ACT 1428
Australia

Australian Government Productivity Commission Draft Report into Resources Sector Regulation

Sir/madam,

Please find enclosed comments from IAGC to the **Australian Government Productivity Commission Draft Report into Resources Sector Regulation** issued March 2020. IAGC thanks the Productivity Commission for the opportunity to comment and look forward to seeing the recommendations implemented by regulatory jurisdictions across Australia.

Background

Founded in 1971, the IAGC is the global trade association for the geophysical and exploration industry, the cornerstone of the energy industry. With more than 80 member companies in 50 countries employing an estimated 87,000 people with revenues exceeding 11.5 Billion (USD), our membership includes onshore and offshore survey operators and acquisition companies, data and processing providers, exploration and production companies, equipment and software manufacturers, and industry suppliers and service providers. IAGC member companies play an integral role in the successful exploration and development of offshore and onshore hydrocarbon resources through the acquisition and processing of geophysical data around the world. Geophysical surveys are undertaken to assist a broad range of clients in understanding the subsurface to make decisions about resource development, the safe location of infrastructure, location of storage facilities and decisions relating to the delineation of exclusive economic zones.

General statements

Australia is a significant market for IAGC member companies. Many of these companies maintain significant technical, operational, production and sales operations in Australia, providing hundreds of highly skilled jobs in urban and regional locations. IAGC sees the possibility that Australia can maintain a long-term high value export-driven energy industry given its significant existing resource base, extensive landmass and large marine estate.

Australia's significant resource base and relative proximity to export markets has driven resource development over more than 50 years. By embracing the multi-client (MC) model of data acquisition, Australia has encouraged IAGC member companies to invest in Australia, leading to the creation of a high-quality, comprehensive MC geophysical dataset that covers a large portion of Australia's prospective continental shelf. Increasingly, navigating Australia's regulatory maze has created uncertainty and added costs for IAGC members. Members have directed investment to other, more attractive resource-rich locations around the world as a result of this regulatory uncertainty. Creating clarity and certainty in the regulatory environment is critical to Australia maintaining its position as a destination for investment in the exploration, development, and production of energy in a post-COVID-19 world.

IAGC acknowledges that NOPSEMA and NOPTA as the primary regulators of the offshore petroleum titles, operations and environmental protection use world-leading risk- and outcome-based approaches to regulation. There are nevertheless opportunities for improvement.

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IAGC feedback on the **Productivity Commission Draft Report into Resources Sector Regulation** is arranged by item below:

Feedback

DRAFT FINDING 4.1

IAGC agrees that there is no case for major reform of the Australian pre-competitive geoscience arrangements. IAGC agrees that the coverage of the geoscience databases could be further improved.

Most importantly, many IAGC members are providers of MC data. Through the MC business model our members acquire and process new data, or re-process existing data at their own risk, at the expense of millions of dollars. This MC data constitutes our members Intellectual Property (IP) and is currently protected by a reasonable 15-year data confidentiality regulation. The business model of our members relies on being able to acquire and process state-of-the-art geophysical data and hold these data confidential for a period while a commercial return is achieved through licencing these data to explorers, developers and producers.

IAGC requests that no reforms to the MC data regulations are undertaken. Reform or uncertainty about the direction of reform directs investment elsewhere. IAGC has communicated with the state and Commonwealth bodies on these matters. For copies of this correspondence please contact us.

LEADING PRACTICE 4.2
IAGC concurs with the Commissions finding. A laudable desire to exclude 'Bad Actors' must be balanced by the encouragement of new and innovative entrants. The current offshore regulatory system does not achieve this.

INFORMATION REQUEST 4.1
IAGC regards the following aspects of the petroleum licensing system to be impediments to investment:

A) Insufficient recycling of permits. Offshore exploration, development and production permits, once granted, can be maintained for much longer periods than anticipated upon award. IAGC encourages the use of the existing regulatory framework to ensure work program commitments are undertaken expediently, while encouraging the exit of inactive participants and imposition of meaningful penalties for reneging on work program commitments. At present the regulatory framework favours incumbency and does not promote investment. The following behaviours are observed:
   (i) *Indefinite suspension and extension of offshore permits:* Offshore permit titleholders are able with limited justification to achieve multiple extensions and suspensions of their titles. This can extend a 3-year primary work program to 6 or more years, impeding exploration activity and the recycling of permits to new players (e.g. WA-499-P).
   (ii) *Multiple permit renewals*: Existing permits, in particular offshore retention leases, can be renewed for up to 15 years on with limited justification. This restricts exploration and development opportunities from other players that could develop these assets more efficiently (i.e. Clio-Acme).
   (iii) *Reneging on work program commitments*: Offshore permit titleholders can exit commitment work programs using a 'Good Standing Agreement'. The value of a GSA and the activity commitments therein is often substantially less than the work commitment that is being reneged upon (e.g. The operator exits from the Great Australian Bight). Titleholders do not consider a GSA as a meaningful penalty to overcommitment. This favours over-bidding at award, insufficient commitment to exploration data acquisition and drilling and holding of permits by incumbents.

B) Data Regulation consistency
   (i) Changes to data submission and retention regulations governing MC data confidentiality periods create uncertainty for IAGC members, often prompting them to direct investment elsewhere.

C) Data Management
   (i) The supply of geological data to the regulator by titleholders is complete, but the quality of these data are variable. The data repository would appear to have limited QC capability on the submitted data, and there is no requirement that the data submitted is the 'best available', rather than 'minimum compliant'. The presence of 'best available' data in the data repository encourages investment and reduces barriers to investment by new entrants.

DRAFT RECOMMENDATION 4.1

IAGC supports this recommendation. IAGC agrees that instead of using bans and moratoria governments should weigh scientific evidence of the costs of a project against the benefits on a project-by-project basis or regional basis.

DRAFT FINDING 6.1 and 6.5
As stated in the Draft Report, the costs of gaining approval can be up to 20% of the project costs, and there is no certainty of achieving that approval. Our members would recognise costs of that scale and manage the uncertainty of achieving project approval. Regulatory approvals that impose unduly cautious operational conditions and delay projects erode our member commercial return.

DRAFT FINDING 6.2
IAGC agrees with this finding and notes that regulators often rely on precaution to expand the scope and time of analysis required. The geophysical and exploration industry employs extensive environmental analysis based on the Best Available Science (BAS). A trend of incorporating precautionary assumptions without clearly distinguishing them from BAS in such agencies as NOPSEMA is evident, however, it often goes beyond BAS.

In Australia, where the precautionary principle is codified in the legal and regulatory process, regulatory agencies should clearly delineate the best available scientific information and additional precautionary assumptions to avoid conflating assumptions and facts.

The IAGC recognizes the complexities and uncertainties inherent in marine environmental management and supports appropriate measures to minimize potential and actual risks. The seismic and exploration industry remains committed to operating in an environmentally sustainable manner and reducing the potential risk of adverse impacts to the marine environment.

As the industry supports these measures, it also calls upon modeling and regulatory efforts to minimize those potential and actual risks to be fact-based and free of baseless precaution. Introduction of precautionary assumptions, that are not based in scientific information during modeling and regulatory efforts nor identified as precautionary, creates confusion about the level of evidence supporting the decision process relative to the degree of conservative bias applied to extend risk minimization beyond the evidence.

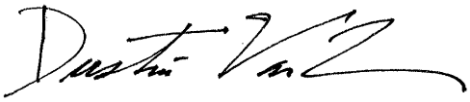
DRAFT LEADING PRACTICE 6.1
IAGC cautiously agree with the statement of leading practice. IAGC notes that risk-based approaches can result in overly cautious management practices. When managing environmental risk in the absence of documented evidence, an arms-race of escalating precaution results in operational practices that extend operational times and may ultimately result in more impact than might occur in the most efficient operations.

DRAFT LEADING PRACTICE 6.8
IAGC agrees that standard conditions for standard risks delivers efficiency to operations.

DRAFT RECOMMENDATIONS 11.1 AND 11.3
IAGC agrees and supports these recommendations. Specifically, IAGC observes a disparity between the capability of the Commonwealth regulator (NOPSEMA) and the state equivalent regulators. Consideration should be given to generating a common capability that can be shared, and costs recovered, between State and Commonwealth.
This suggestion is aligned with LEADING PRACTICE 11.3.

Thank you for your attention. If you have any questions on the responses, we would be pleased to answer any questions or provide any clarification. Please contact Dr. Simon Molyneux, IAGC's Asia-Pacific representative on simon.molyneux@iagc.com or +61 (0) 418 349 672.

Sincerely,



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