

Managing the Risk of Offshore Oil and Gas Accidents: The International Legal Dimension is a book from the Edward Elgar's New Horizons in Environmental and Energy Law Series. It is structured around the assessment of domestic and regional legal concepts regarding safety, liability and compensation for harm, and is divided in three Parts containing topics consisting of one or several Chapters.

Part I is on prevention and reduction of harm. Without restricting itself only to the offshore industry, Topic/Chapter 1 acknowledges the deficiencies of risk management by considering State and stakeholder involvement in corporate governance and concludes that transparency is one of the most important factors for improving it.

Topic 2 is on regulating the safety of offshore oil and gas operations. Chapter 2.1 is on promoting uniformity in international governance. This is achieved by discussing the prescriptive (Malaysia, Venezuela, Saudi Arabia) and performance-based regulatory approaches, and the tendency of moving towards hybrid control (USA, Norway, UK, Australia). The reasons for the latter – that government agencies are not well-suited to inspect the quality of the industry even though obliged to ‘audit the auditor’s auditor’ – are established in Chapter 2.2 using as role model the ongoing changes in the USA following the Deepwater Horizon (DWH) accident. Although international law has no provisions on promoting uniform health and safety standards and that the hybrid system allows for easy harmonisation, it is also possible in States promoting prescriptive regulation.

Topic/Chapter 3 discusses the need to amend treaty law on contingency planning and response (CPR) regarding transboundary pollution through reviewing the vertical levels of governance: treaty (UNCLOS and OPRC), regional (Arctic) and bilateral (Norwegian-Russian) legislation.

Unlike it, Topic 4 is on national and regional CPR – Chapter 4.1 reviews the amendments and implementation of EU law after DWH accident; Chapter 4.2 is on MOSPA and the 1994 Russian-Norwegian Agreement in the Barents Sea; Chapter 4.3 is on national and interstate CPR of the Arctic by the USA, Canada and Greenland; Chapter 4.4 is chiefly on the Mediterranean, although also referring to the other marine areas – in Europe, the Arab peninsula, Africa, the Pacific, the North East Atlantic and the Caribbean.

The approaches in Topic 4 differ in depth of research. While some might be used for referencing (the regional agreements in Chapter 4.4), others describe the peculiarities of national governance (Greenland in Chapter 4.3). However, all are quite detailed in considering the impact on stakeholders and their authors agree on: the insufficiency in harmonisation, the extant high fragmentation, and the low levels of joint decision-making, thus urging continued cooperation.

Topic/Chapter 5 is on cooperation in marine delimitation and exploitation of transboundary deposits agreements (unitisation treaties, framework agreements and joint development agreements) for avoiding transboundary accidents. The review of several regional and bilateral agreements shows that it is impossible to categorise them. However, diversity also offers a range of options to choose from in order to meet States' specific objectives.

Part II is on liability and compensation of loss. Chapter 6, describing the 2009 Montara and 2010 DWH accidents, shows the necessity of introducing a treaty law on transboundary losses. States prefer to channel liability to the operator which, unfortunately, is not a panacea, and additional measures for ameliorating the situation are proposed.

Topic 7 is on the most contentious losses that may occur following a pollution accident. Chapter 7.1 is on pure economic loss criticising the method for calculating DWH claims and an alternative is offered. Chapter 7.2 is on pure environmental damage. Unlike pure economic loss, it relates to collective rights and is also difficult to calculate. Treaty law is unclear about who is to be liable. However, certain US and EU laws could be used as a model in amending it.

Since the US are the place of greatest concern for risk managers in the offshore petroleum industry, Topic/Chapter 8 considers when punitive damages are granted. The conclusion is that that they are not quite popular among judges.

Topic/Chapter 9 is on liability insurance in the upstream operations – of the contractors, for well control, rigs and offshore vessels – and the issues of subrogation and business interruption insurance as developed by the London insurance market under English law. And although in 2015 the legislation was amended, the parties are still to be aware that renegotiating the standard terms might affect them negatively.

Part III is on claims processing. While Topic/Chapter 10 is on the role the CLC/FUND Conventions have in resolving pollution claims from carriage of petroleum by sea, Chapter 11.1 is on DWH litigation and Chapter 11.2 on compensation following the Montara accident. The CLC/FUND Conventions are unrelated to seabed petroleum extraction, whose solutions on liability may be completely different. The DWH proceedings describe the consolidation of claims and the distribution of the fund established by BP. Regardless of the procedural and substantive flaws, the settlement of claims has been substantially successful and its experience could be instructive for future oil spills. Unlike DWH, Montara looks from a broader perspective – against whom and where the transboundary and national victims could claim. Thus, the difficulties which the transboundary claimants have encountered when they brought their claim in the Australian court against the operator have been recognised.

Topic/Chapter 12 is on the development of mass tort litigation in Europe. After pinpointing the differences between the continental and US common law systems, the shared features of several European class action cases are discussed – the role of State institutions, preference for individual litigation, and the European (national and supranational) procedural laws. Thus, the authors show what amendments have been undertaken in order to make class litigation more attractive in Europe.

There is no way to disagree with the editors that this book seeks to provide a comprehensive analysis of the transnational dimension of the petroleum activities by looking at harm prevention and post-accident management of risk. The lack of references in the table of contents for a particular law does not mean that scholarship has not considered it in detail or that its review has not been spread throughout the Chapters (e.g., MOSPA or the US law). Also, the missing acknowledgement of relevant existing legislation, such as the one pertaining to Danish-Canadian relations,^[1] shaping as well the Greenlandic obligations due to its colonial past, does not decrease the quality of its research. In addition, the review of recent caselaw and the list of major accidents in Chapter 9 make it a good reference for legal academia at large. Furthermore, by encompassing different levels of governance, the book stresses that States and international organisations need to be more proactive in finding common solutions to the existing problems.

^[1] Agreement for Cooperation between Denmark and Canada Relating to the Marine

Environment (Copenhagen, 26.08.1983)