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RE: Reporting and Disclosure of Information and Samples: Supplemental Guidance on the Disclosure of Certain Geophysical Survey Data (Created or Acquired under an Exploration Licence Post-2017)

INTRODUCTION

The International Association of Geophysical Contractors (IAGC) appreciates to the opportunity to provide comment on the United Kingdom, Oil and Gas Authority (OGA) proposed [supplemental] guidance on the disclosure of certain geophysical survey data (created or acquired under an exploration licence post-2017). Due to the importance and potential material impacts from the disclosure of geophysical data, our members have consulted extensively with the OGA over the past four years. We agree with the OGA's intent that, in general, "there should be consistency in the periods after which disclosure of information relating to the geophysical surveys carried out under an exploration licence may be disclosed with those set out in the Disclosure Regulations¹", however, just as important are a stable, consistent, and predictable regulatory environment.

The UKCS is a symbolic and critical economic sector for the United Kingdom. After delivering decades of prosperity to the UK this mature basin now requires careful and appropriate policy, regulatory and fiscal support in order to maximize economic recovery. We welcome the attention the UK Government has given to the UKCS and share the goal of maximizing economic recovery. However, the greater technical challenge and financial risks of operating in the UKCS require a sophisticated

¹ The Oil and Gas Authority (Offshore Petroleum) (Disclosure of Protected Material after Specified Period) Regulations 2018, enforced 13 August 2018.

understanding of the realities of operating in the UKCS and careful, considered reforms from Government, where appropriate and beneficial.

The IAGC welcomes guidance to clarify regulatory and legal requirements in the UK, given the recent passage of Disclosure Regulations¹, working in good faith to assist the OGA and UK Government's goal of, "work[ing] with the industry and government to maximise the economic recovery of UK oil and gas". Unlike the proposed *Supplemental Guidance on the Disclosure of Certain Geophysical Survey Data (Created or Acquired under an Exploration Licence Pre-2018)*, the proposal for disclosure of geophysical data post-2017 is consistent with the regulations and therefore generally supported by the IAGC.

ASSOCIATION

The IAGC is the international trade association for the geophysical and exploration industry, the cornerstone of the energy industry. Our membership includes onshore and offshore survey operators and acquisition companies, data process providers, exploration and production companies, equipment and software manufacturers, industry suppliers and service providers. The IAGC has more than 80 member companies in nearly 50 countries, comprised of a wide range of geophysical survey companies, equipment manufacturers, consultancies and providers of support services. The IAGC is further supported by a number of 'Industry Partners' which includes Exploration and Production companies.

The IAGC's mission is to optimize the business and regulatory climate, and enhance public understanding to support a strong, viable geophysical industry essential to discovering and delivering the world's energy resources. The IAGC's vision is to be the most credible and effective voice for promoting and ensuring a safe, environmentally responsible and competitive geophysical and exploration industry.

BACKGROUND

Creation of the OGA, was formed in April 2015, initially as an executive agency of the Department of Energy and Climate Change, now the Department for Business, Energy and Industrial Strategy (BEIS). In October 2016, the OGA became a government company, limited by shares under the Companies Act 2006, with the Secretary of State for BEIS as the sole shareholder. The OGA's role is to regulate, influence and promote the UK oil and gas industry in order to achieve the principal objective of maximising the economic recovery of the UK's oil and gas resources.

The Wood Review's two key recommendations for maximising economic recovery from the UK Continental Shelf (MER UK) included the new body taking steps to facilitate implementation of MER UK – one of the aims of these recommended powers was to “ensure greater access to the timely and transparent data necessary for a competitive market”.

The Energy Act 2016 (“the Act”) includes a number of provisions in relation to the retention (by industry), reporting (to the OGA) and subsequent disclosure (by the OGA) of information and samples.

As noted in the proposed guidance, the IAGC members have consulted extensively on data disclosure in the UK with the OGA.

THE MULTI-CLIENT BUSINESS MODEL

Geophysical surveys are conducted on either a multi-client or proprietary basis. Proprietary or exclusive surveys are acquired by a geophysical company for an individual client who owns the data, and they usually cover limited acreage. In contrast, multi-client surveys are acquired by the geophysical company for its own use and are generally collected over large acreage. The geophysical company owns the data which it then markets and licenses to as many clients as possible, making the survey less expensive on a per-unit-area basis than proprietary data and driving interest in the potential leasing acreage.

The multi-client data licensing business model has significant economic advantages for E&P companies, host governments and geophysical companies. The multi-client business model spreads the costs of data acquisition and processing over time and among multiple customers. Under the model, the geophysical company initiates and conducts projects of general industry interest at its own

financial risk. Restricted non-transferrable data-user licenses are then sold to individual E&P companies for a fraction of the cost of acquiring and processing the data themselves, with no operation risks, allowing multiple E&P companies the opportunity to evaluate resource potential in particular area along geological trends that will facilitate higher exploration and development success rates.

The benefits to Host Governments, including the UK are: Lower barriers to entry for E&P companies thus promoting more active and competitive licensing rounds; Rapid and efficient development of reserves; Provide data to make decisions about operational matters; and Provide opportunity to create subsurface maps that can help in the stewardship of the natural resources.

The model is often considered the best way to source data more efficiently. Data is accessible quickly at a fraction of the cost, and a significant portion of the investment to explore the basin is covered by the geophysical industry, lowering economic hurdles to exploring and producing. Multi-client companies are willing to take on a share of investment cost where they can make a fair return. There is strong incentive for multi-client companies to apply new technology in mature basins (e.g. US GOM, Norway, UK), where the industry benefits from a history of deepwater discoveries with a legacy of geophysical advancements. Certainty in the confidentiality periods in place at the time of multi-client investment are an integral part of planning, specifically with regard to investment spend. Of particular importance is the confidentiality or exclusivity-term applied to field data (referred to in the OGA guidance as legacy or raw data), the initial data collected by geophysical companies forming the basis for all future derivatives, value added practices, and product marketing for the given survey area.

IAGC members are entitled to expect a reasonable return on their investment and recognition of their intellectual property value to acquire and process the geophysical data—or field data—critical to exploring the UK's offshore. Field data can continue to be licensed and reprocessed to attract further investment and interest in the lease area, and the reprocessing is a significant contributor to returning the seismic company's investment, especially in downturns. Often field data is available at a lumpsum once an oil company gains an equity/commercial interest in a block. This competitive market model is still valid for the multi-client and exploration industries. Most importantly, field data does not stimulate MER (Maximizing Economic Recovery) principles.

FEEDBACK ON SPECIFIC GUIDANCE PROVISIONS

1. *The Exploration Licence clauses set disclosure timing at three (3) or five (5) years (depending generally on the date of grant of the licence) for final stack data. The Disclosure Regulations and Supplemental Post-2017 Guidance state that final stack data will be disclosed ten (10) years after the completion of final processing (i.e. the Initial Disclosure Period in respect of Processed Information).*

Q1A: Do you agree that this period is reasonable?

Answer: Yes, the IAGC agrees that this period is reasonable and consistent with the regulations.

Q1B: If you answered 'no' to Q1A, what longer period should the OGA consider? Please provide reasons for any alternative period proposed.

2. *Similar to final stack data, the Exploration Licence clauses set disclosure timing at three (3) or five (5) years for field (raw) data. The Disclosure Regulations and Supplemental Post- 2017 Guidance state that field (raw) data will be disclosed fifteen (15 years after the completion of final processing (i.e. the Full Disclosure Period in respect of Original Information).*

Q2A: Do you agree that this period is reasonable?

Answer: Yes, the IAGC agrees that this period is reasonable and consistent with the regulations.

Q2B: If you answered 'no' to Q2A, what longer period should the OGA consider? Please provide reasons for any alternative period proposed.

3. *Value Added Data, being products created after the completion of final processing, have not been and will not be (pursuant to the Disclosure Regulations and Supplemental Post-2017 Guidance) disclosed.*

Q3A: Do you agree that allowing value added data products to be retained by the owner will provide them with an incentive to continue to improve the quality and usefulness of the datasets, as well as develop new processing technology and techniques?

Answer: Yes, the IAGC agrees that value added data products being retained by the owner will provide incentive, based on market conditions, to provide enhanced products. The IAGC

members continually work to advance technology and techniques for imaging the subsurface for the benefit of the industry and governments alike. Continuing to recognize the confidentiality of proprietary products, value added products, is integral to maintaining a stable business environment.

Q3B: If you answered 'no' to Q3A, what longer period should the OGA consider? Please provide reasons for any alternative period proposed.

Q4. Do you have any further comments on the matters raised in this consultation?

Two points of concern are the following sections in the consultation:

4. The OGA is not bound by this guidance and where it departs from this guidance it will explain why. This guidance is not a substitute for any regulation or law and is not legal advice.

5. This guidance will be kept under review and may be revised as appropriate in the light of further experience and developing law and practice, and any change to the OGA's powers and responsibilities. If the OGA changes this guidance in a material way, it will publish a revised document.

While we understand regulations may be changed from time to time and the subsequent guidance be issued, these points relate heavily to our member's concerns relating to what certainty (or lack thereof) there is about future changes. Of particular note, the language states that a revised document will be produced - no mention of further consultations in light of any perceived need to update the guidance.

The table included in the proposed guidance (section 3, page 5); the IAGC is opposed to the OGA proposed controls on the commercial aspects of the geophysical market. Specifically, the IAGC is opposed to the restriction on uplift fees for "released data" and find this to be outside the remit of the OGA and this consultation. We note that the Regulations, quite properly, make no reference to commercial terms and in particular do not seek to impose any prescriptive commercial terms. We are therefore surprised that the draft guidance contains commercial terms and goes beyond the Regulations by seeking to deal with commercial issues. We do not consider that it is appropriate for the Guidance to stray into the territory of such commercial terms which are entirely a matter for the

relevant parties to agree among themselves. We therefore ask you to delete all references to commercial terms throughout the draft Guidance.

CONCLUSIONS

The IAGC appreciates the opportunity to provide feedback on the OGA's proposed guidance interpreting the regulations for the disclosure of multi-client geophysical data acquired after 2017. The IAGC recognizes the need for the OGA to implement the regulations passed by Parliament and through an extensive consultation process, we believe the OGA has developed useful guidance for the multi-client industry to follow.

We urge the OGA to take a measured approach to any future proposals pertaining to the disclosure of geophysical data as a stable and predictable regulatory environment is paramount to meeting the shared goal of maximising economic recovery on the UKCS.

The geophysical industry continues to support the OGA's goal of enhancing and incentivizing exploration and production of the UKCS. The IAGC urges the OGA to seek the geophysical industry's input and support for advancing the OGA's mission.

Should you have any questions regarding the comment letter, please don't hesitate to contact Dustin Van Liew, IAGC's Director of Regulatory and Governmental Affairs, at dustin.vanliew@iagc.org.

Sincerely,



Nikki Martin
President
International Association of Geophysical Contractors

cc: Chris Drage - IAGC EAME Chair, Dustin Van Liew - IAGC Vice President of Regulatory & Governmental Affairs