

Strengthening Canada's Non-Arctic Offshore Oil and Gas Regime



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IRF Conference, Australia
October 2013

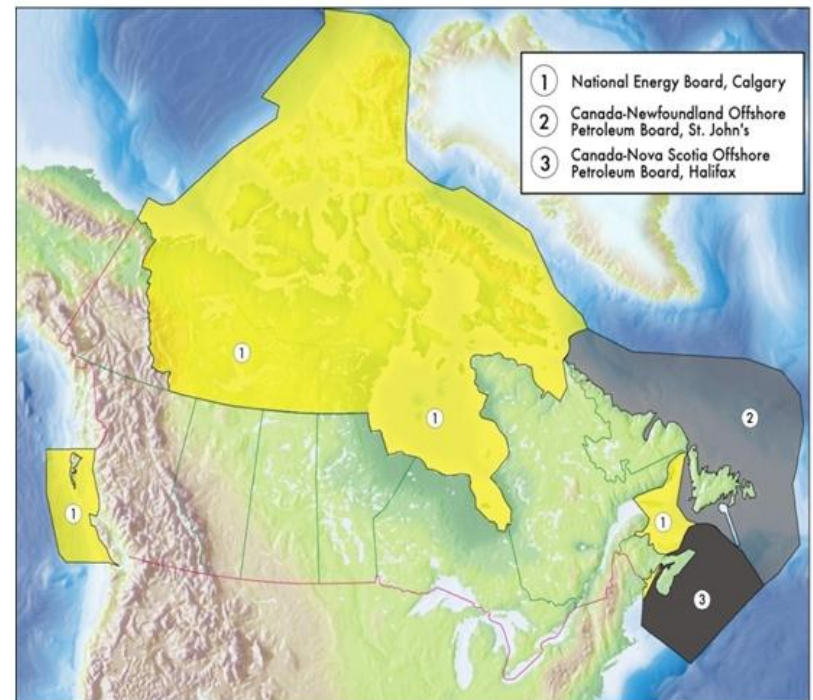


Purpose

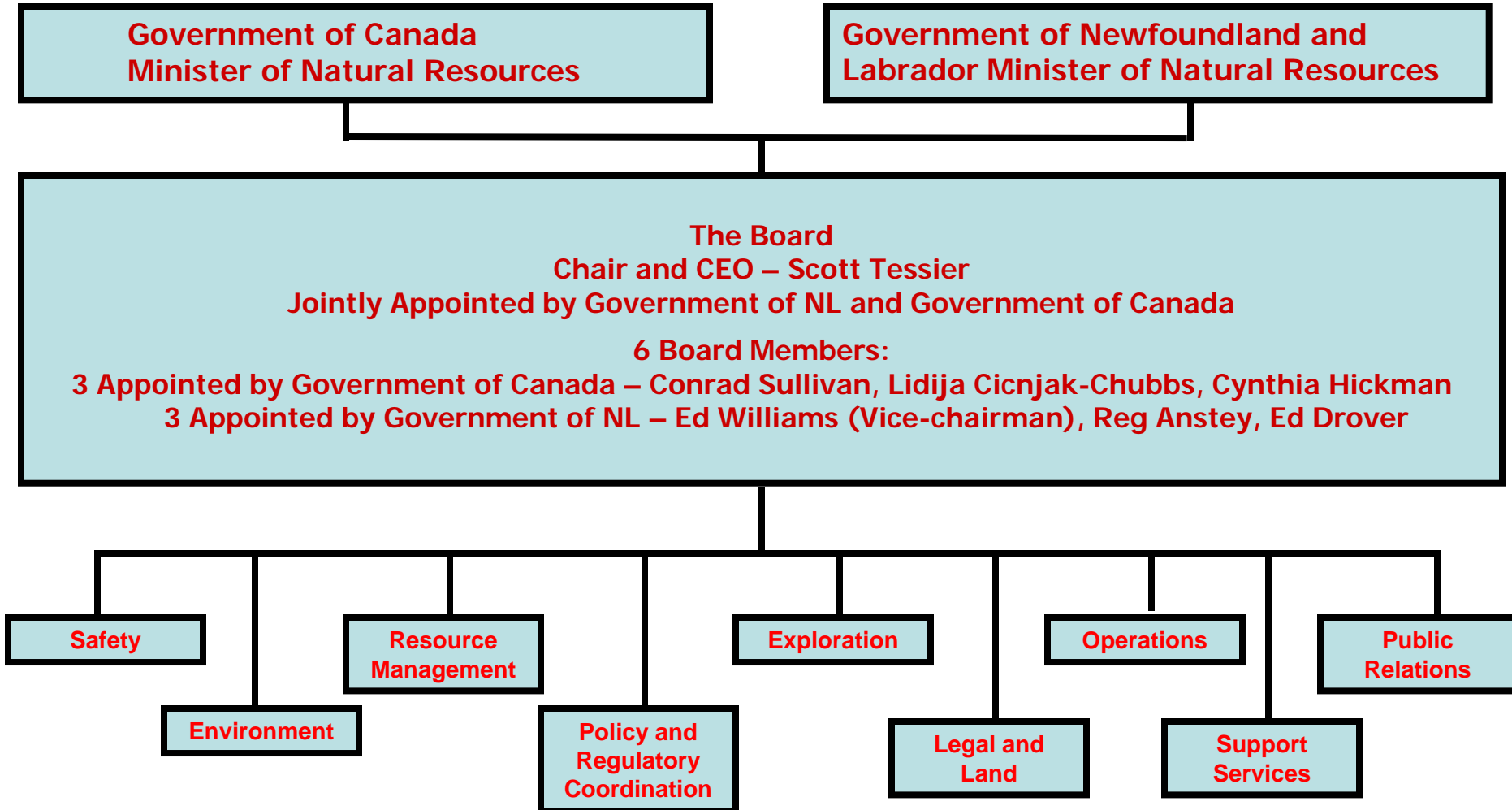
- Provide an overview of the governments' intention to bring forward legislative and regulatory change to further strengthen Canada's offshore petroleum regimes
- The detail contained in this deck is subject to legislative and other approvals
- The intent is to modernize the offshore oil and gas regimes:
 - update and expand liability provisions for offshore petroleum operators
 - improve the transparency and clarity of offshore petroleum regulations

Canadian Regulatory Regime

- The Government of Canada shares responsibility for the management of offshore oil and gas resources with the Government of Newfoundland and Labrador and the Government of Nova Scotia within their respected provincial offshore boundaries
- Canada has three regulatory boards:
 - National Energy Board (yellow)
 - Can-NL Offshore Petroleum Board (Grey)
 - Can-NS Offshore Petroleum Board (Black)



C-NLOPB Organizational Structure



Significant events have drawn attention to risks of petroleum spills offshore

- Macondo (2010) and Montara (2009) spills caused reflection and review
 - Departments of Natural Resources (NRCan) and Aboriginal Affairs and Northern Development undertook an internal review of Canada's offshore regime, to identify areas for continuous improvement
 - National Energy Board (NEB) conducted Arctic Offshore Drilling Review (2010-2011)
 - C-NLOPB introduced Special Oversight Measures for offshore drilling in deep water



Other Reports

- 2010 study by Canada's Senate found Canadian offshore regime to be fundamentally sound. The report stated: "Canada's offshore industry is subject to a regulatory regime that is modern, up-to-date and among the most efficient and stringent in the world..."
- In 2013, Canada's Commissioner of Environment and Sustainable Development report recommended that Government move to update liability provisions
- The Government of Newfoundland and Labrador commissioned the Turner Report, which among other things, recommended a review of liability regime

Canada's offshore petroleum liability regime already strong in international comparisons

An independent consultancy rated Canada/UK/Norway/Australia as world leaders in offshore regulation based on the ability to balance mandates for extensive regulation with efficient processes successfully

Source: PRC Energy Petroleum Risk Manager, November 2010

Current Liability Regime

- Founded on the Polluter Pays Principle, but not explicitly referenced in the legislation
- Unlimited liability should parties be found “at fault or negligent”
- Absolute “no fault liability” set at \$30 million
- Before activity can proceed, the proponent must provide evidence that it can cover the financial liabilities that may result from a spill – typically \$350 million, of which \$30 million is required as a deposit.



In June 2013, the governments of Canada, Nova Scotia and Newfoundland & Labrador proposed changes to further strengthen the Canadian regimes

- Reinforce the “polluter-pays principle” in legislation
- Increase “absolute” liability (no fault) limits in the offshore to \$1 Billion
- Allow for non-financial damages (e.g., environment) to be included in liability
- Establish \$1 Billion minimum financial resources (capacity) requirements
- Increase “direct access” amount required from authorization holders to \$100 million with option for industry to develop a fund of \$250 million available to all regulators
- Establish that authorization holders are responsible for their contractors
- Permit the safe use of spill treating agents

Reinforce the “Polluter-Pays Principle”

- Enshrine the polluter-pays principle in statute



Increase “absolute” liability limits to \$1 Billion

- Confirm that unlimited liability continues to apply in cases where fault or negligence is proven
- Increase absolute liability (no fault) limits in the offshore from \$30 million to \$1 billion

Allow Governments to seek environmental damages

- Federal or provincial attorneys general would be permitted to seek compensation for environmental damages resulting from a spill
- Courts to be given broad “creative” sentencing powers
- Any damages recouped would rank after damages for actual loss and would count towards the absolute liability limit

Establish minimum financial resources (capacity) requirements

- Set minimum financial capacity requirements equal to absolute liability
 - Regulator must be assured that operator has available financial assets of at least \$1 billion
 - In cases of demonstrably lower risk, process exists to recommend a lower level. Final decision rests with Minister(s)

Increase “direct access” amount required from authorization holders

- Regulators must be provided direct, unfettered access to \$100 million
 - Amount increased from \$30 million
 - Amount applies in each regulated area (currently 3)
- OPTION: Regulatory requirement can be fulfilled by demonstrating membership in an operator-managed pooled “fund” offering regulator(s) equivalent access with a minimum of \$250 million
 - Such funds may be made available to more than one Canadian regulator
 - Any funds withdrawn must be repaid by the operator whose action led to the withdrawal

Permit the release of certain documents filed with regulators

- Allow the disclosure of Emergency Plans, Safety Plans and Environmental Effects Monitoring Reports
- Regulators will be permitted to make documents filed by project proponents available to public

Creating an Administrative and Monetary Penalty Regime

- Fills a gap in the regulatory compliance spectrum
- Regulators will have the ability to levy fines for incidents of non-compliance

Offshore Boards Become Responsible Authorities under CEAA 2012

- Canada's two Atlantic offshore petroleum boards will be provided with authority to conduct environmental assessments under the modern Canadian Environmental Assessment Act 2012

Permit the use of Spill Treating Agents

- Regulators will have authority to issue approvals for use of Spill Treating Agents (STAs) to deal with an offshore spill in specific conditions where they will be effective
 - STAs will only be approved if part of an operator's emergency response plan
 - Approvals will be on a case-by-case basis and a “net environmental benefit” analysis will be key to the regulator's determination
 - Permitted substances is expected to include chemical dispersants

Websites

www.cnlopb.nl.ca

www.cnsopb.ns.ca

www.nrcan.gc.ca

www.neb-one.gc.ca