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## Panel: International Offshore Technology Transfers: Successful Innovation Through Global Collaborations for Mutual Benefit

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### Abstract

This session will provide an opportunity to hear a candid discussion of the current restrictions on technology transfers affecting the oil and gas industry in offshore exploration. The discussion will focus on the interests and needs of the different stakeholders, operators and service companies alike, in the current climate of record setting operations. The panel will discuss the different considerations for allocating and mitigating risks associated with the use of new technical solutions. In addition, current issues related to intellectual property rights will be addressed as this industry moves into new frontiers (e.g., China, India and West Africa) and seeks to engage a new types of clients including government owned entities.

### INTRODUCTION

Offshore technology transfers are increasingly common in the current business environment as there is a trend to share technology with others for mutual benefit. Legal mechanisms are available that will safeguard business objectives when stakeholders align to develop the technical advancements. However, the key to successful innovation sharing is that the collaboration be beneficial for each participant. Sharing intellectual property rights often helps a business expand its current operations into new markets, more effectively and with greater ease. However, licensing can be complex and the material terms of an agreement often encompass issues beyond the basic technological focus such as tax implications and governmental restrictions. Limitations in interests and use imposed by various governments can cloud what might appear to be a simple transfer in technology. As a result, offshore technology transfers often require considerable planning. Moreover, the technology transfer agreement must take into account the objectives and concerns of each stakeholder participating in the transaction.

### Offshore Technology Transfers of Intellectual Property Rights

A key challenge for oil, gas and petrochemical businesses is to remain profitable in an ever increasingly global economy. Offshore oil and gas exploration can offer viable streams of revenue from existing assets. More often than not, however, new technology is required to facilitate and exploit new opportunities in various markets. Innovation has become crucial, and is now recognized as a valuable asset in today's global economy. Intellectual property rights that result from innovation, however, are territorial, and are procured and enforced through the policies and procedures of different intellectual property systems. In many jurisdictions, intellectual property rights must be secured before novel technology can be revealed, used or shared. Once protected, a business can leverage its asset to gain and retain its competitive advantage.

Different legal systems throughout the world recognize, protect and limit rights in intellectual property in a variety of ways that can make offshore technology transfers a risk laden and expensive proposition, especially, if a business seeks to exchange technology outside of its domestic market. Moreover, even when products and services are only marketed domestically, offshore technology transfers from outside a domestic market can influence the value of intellectual property rights in a local market. In fact, "differences in national intellectual property rules may cause economic activity to shift from one jurisdiction to another so that a higher-protection rule will be undermined by lower-protection rules of other jurisdictions."<sup>1</sup>

Thus, as the various regulatory and governmental bodies address trade policy among the nations, governmental leaders remain focused on the concerns of intellectual property rights. Likewise, stakeholders are keenly aware of the impact of intellectual property rights. As a result, recently, stakeholders are creating strategic alliances to advance business objectives and for financial gain in new markets and territories. These stakeholders include operators, service companies, contractors, suppliers, and technology licensing companies, together with its employees, management and shareholders, and the various governments and their citizens. The type of relationship and agreement between the stakeholders depends on a variety of factors, not the least of which is the amount of bargaining power a party may have. But whatever it may be, the agreement between parties must be beneficial to each company and its objectives. No party