Standard Club Offshore Forum 2012

London
3 October 2012

The Standard

Standard Club - update

Alistair Groom
Chief Executive, Standard Club

London
3 October 2012

Contents

Swire Blue Ocean *Pacific Orca*

Key metrics

2011 figures are restated to take into account the re-organisation of the Standard Clubs

Current financial influences

The Standard

- difficult financial markets, small investment gains so far this year
- P&I claims generally stable but:
  - continued P&I claims inflation
  - general under-rating across the market as a whole
  - tough financial conditions for many members
- defence claims continue at a much higher level since 2008

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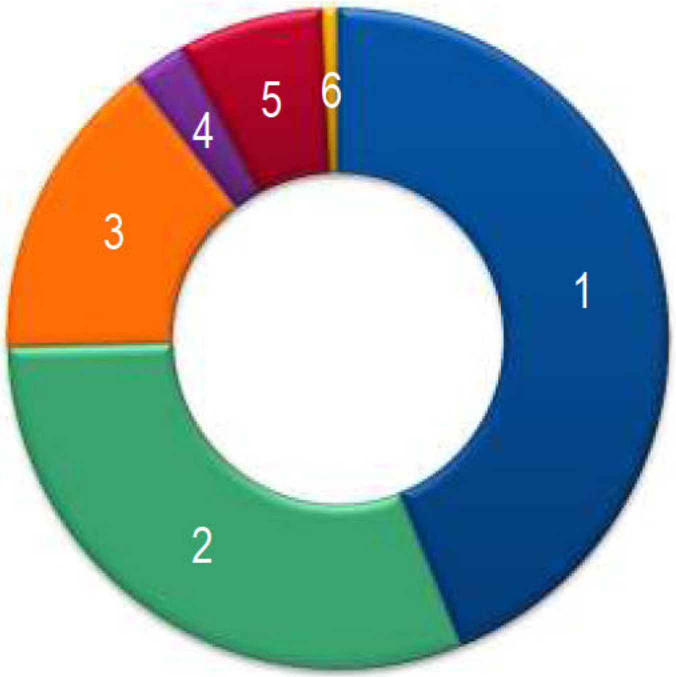
Asset allocation

As at 20 September 2012



1	Sovereign bonds	43.9%
2	Corporate bonds	30.7%
3	Equities	14.9%
4	Alternatives	2.7%
5	Cash	7.0%
6	Gold	0.8%

Investment return

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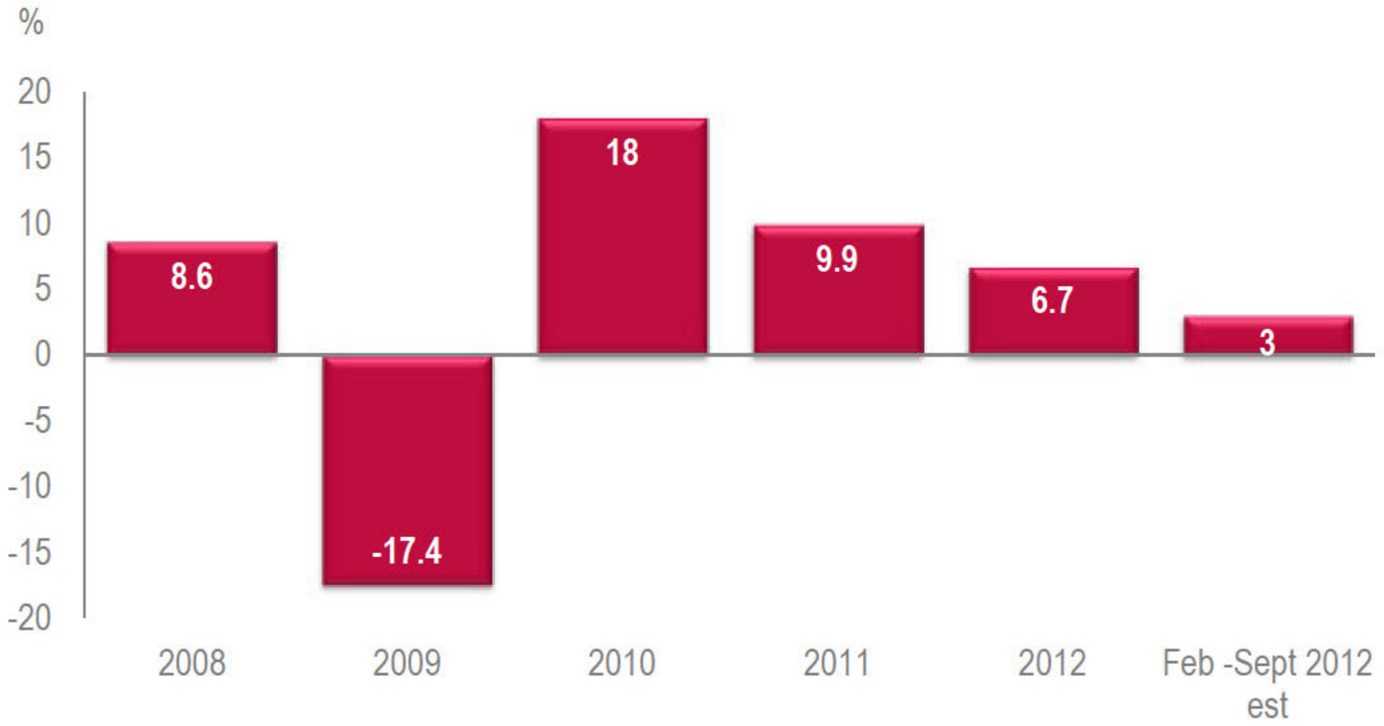

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Standard Offshore

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- high level of specialist expertise, unique breadth of experience
- dedicated syndicate
- contract risk assessment
- standard form and bespoke cover terms
- successful underwriting
- first class reinsurance programme
- offshore surveys

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Offshore ship types by tonnage

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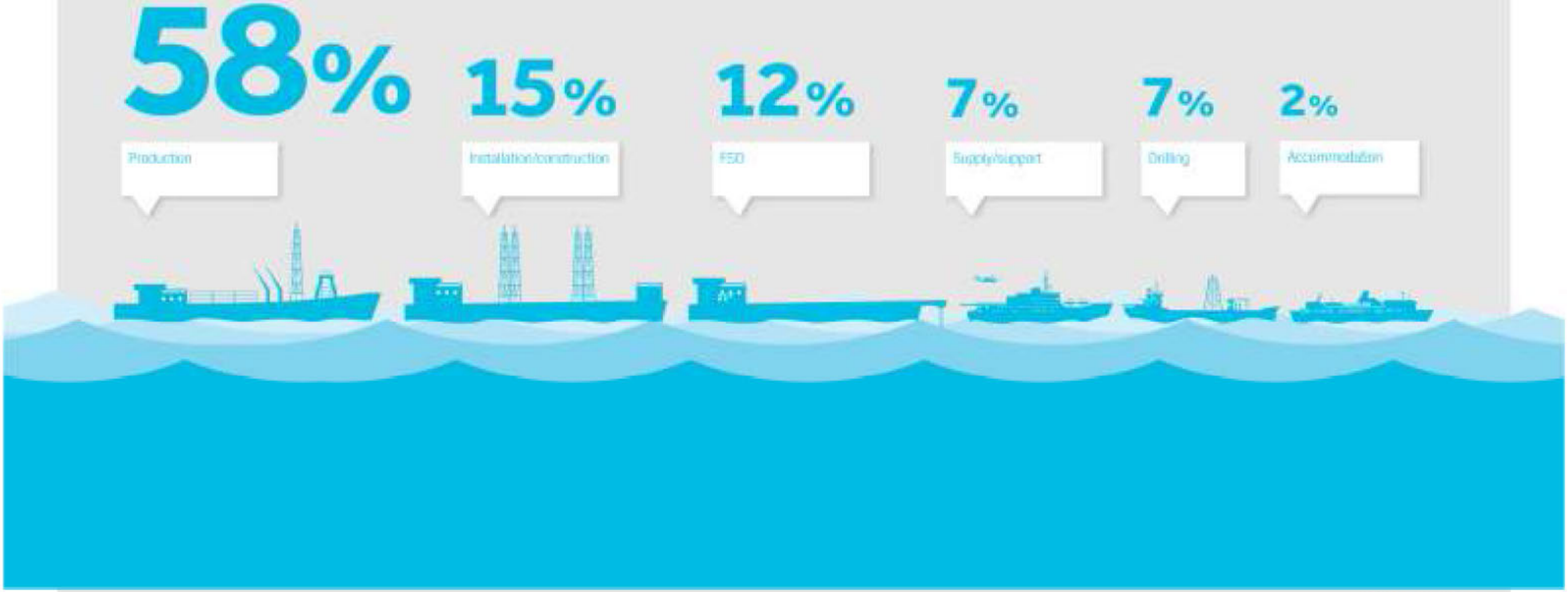

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Standard Offshore – where we do business

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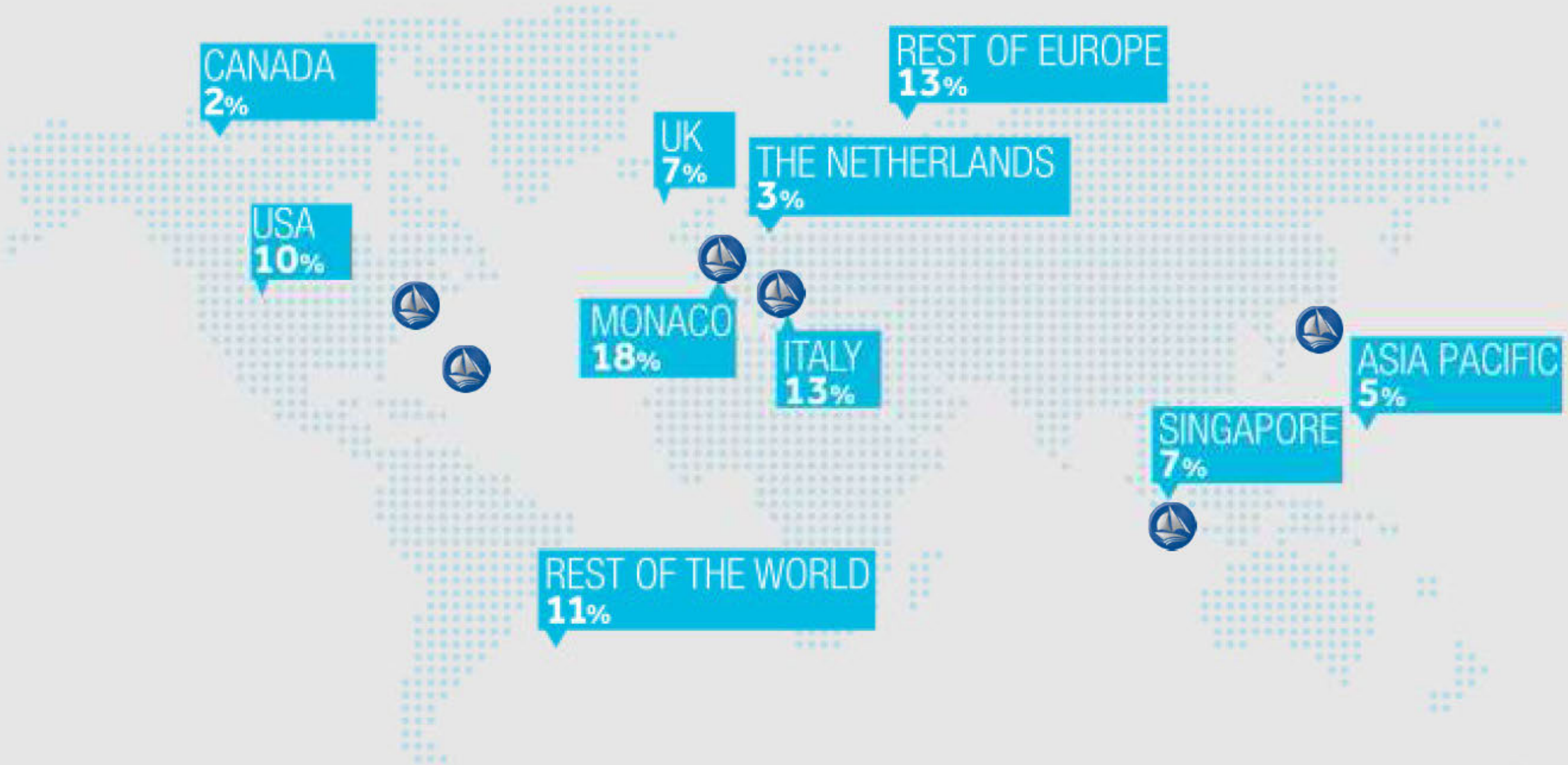

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Standard Offshore members

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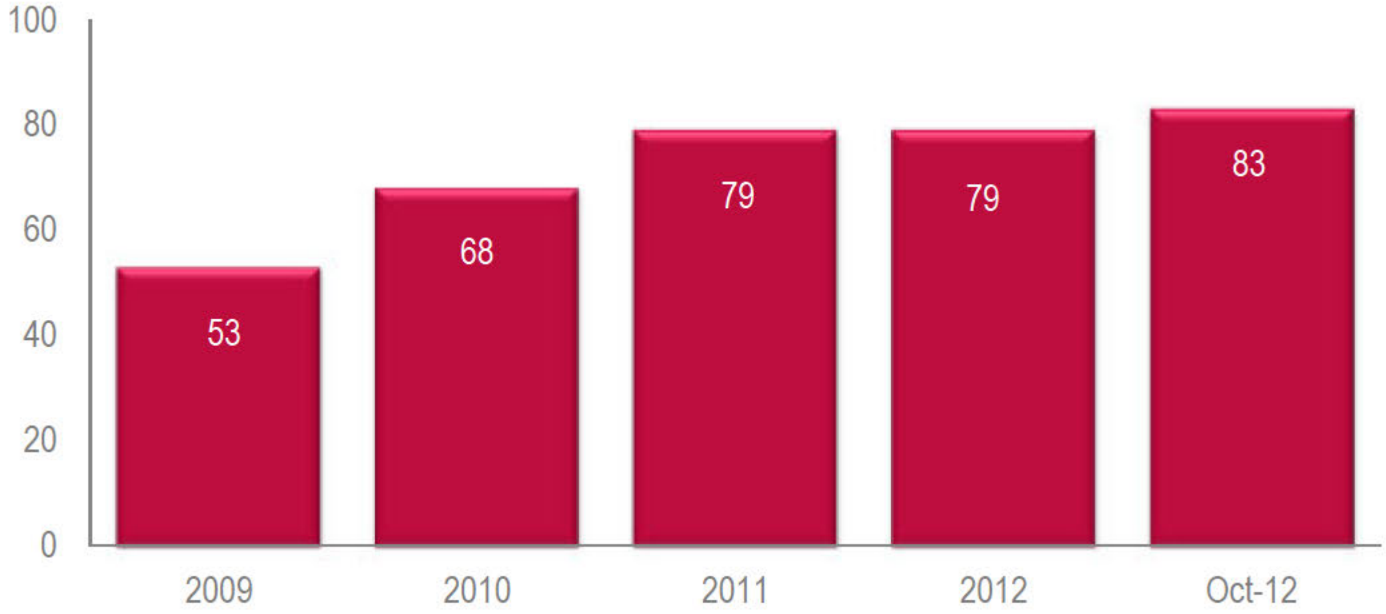

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Tonnage and units

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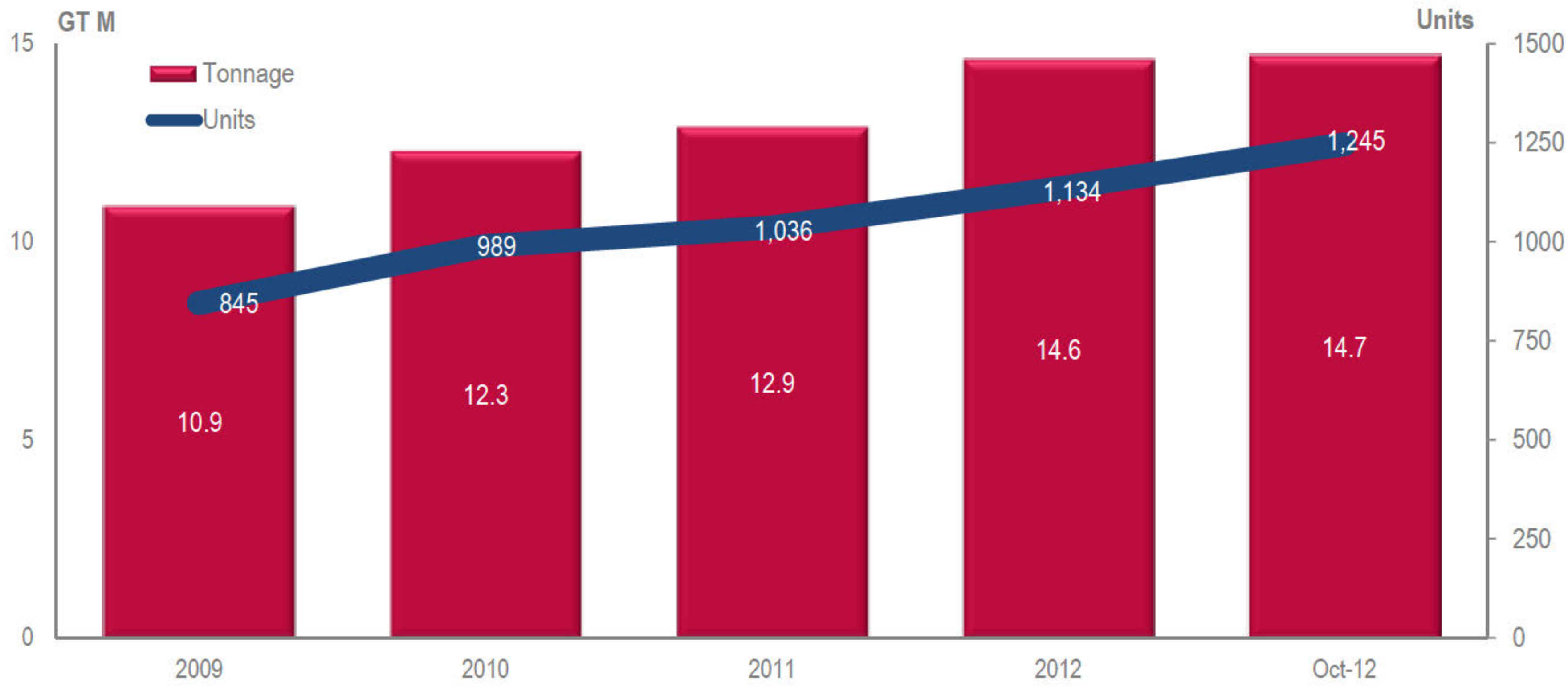

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Contracts reviewed

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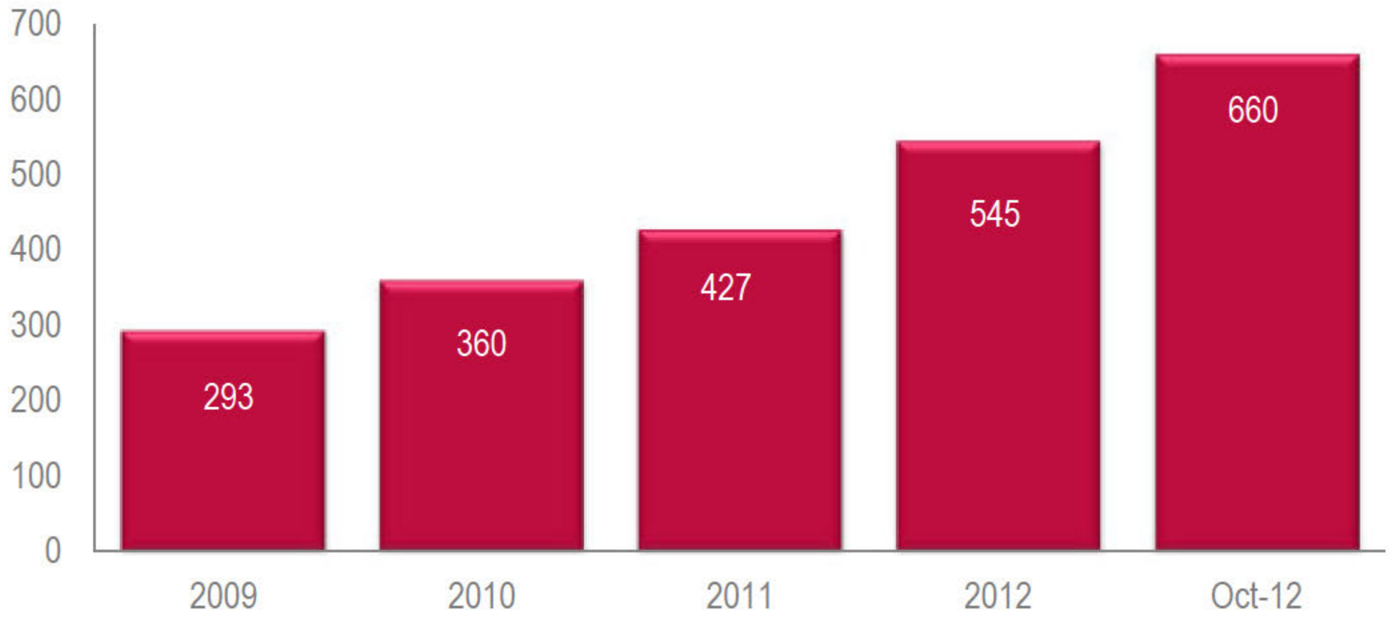

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Offshore Director
Robert Dorey

Underwriting

Underwriters
John Croucher
Claire Wheeler
+ 1

Deputy Underwriters
Joseph Divis
Sian Meadows

Underwriting Assistants
Hannah Day
Brendan Pir
Celia Harrison

Claims

Syndicate Claims Director
Fabien Lerede

Claims Director
Ursula O'Donnell

Claims Executives
Rupert Banks
Roger Johnson
Leanne O'Loughlin

Singapore

Offshore Regional Claims Director
Sharmini Murugason

Support

Nikki Morton

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Current issues

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- renewal
- reinsurance
- Solvency II
- piracy
- fines
- sanctions

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Club development

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- new covers:
    - kidnap and ransom cover
    - traders' transport cover
    - professional liability cover
- widening the offering
- growing the service

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London
03 October 2012

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UK Continental Shelf – What Future?

Standard Offshore Forum, 3rd October 2012

David Odling,

Energy Policy Manager,

Oil & Gas UK

Oil & Gas UK

the voice of the offshore industry

IEA's World Energy Outlook 2011

(three policy scenarios: *"current"*, *"new"* and *"450"*)

- Fossil fuels continue to dominate energy supplies out to 2035: (75-80% in *current* and *new*, 60-65% in *450*)
- Oil maintains largest share *(new)*; or coal *(current)* and renewables *(450)* take largest shares
- Electricity consumption grows faster than any other end use of energy, driving growth in both coal and gas consumption
- Coal remains backbone of world power generation, but gas gains share at coal's expense
- Natural gas will play a key role; indeed, gas may be entering a "golden age"

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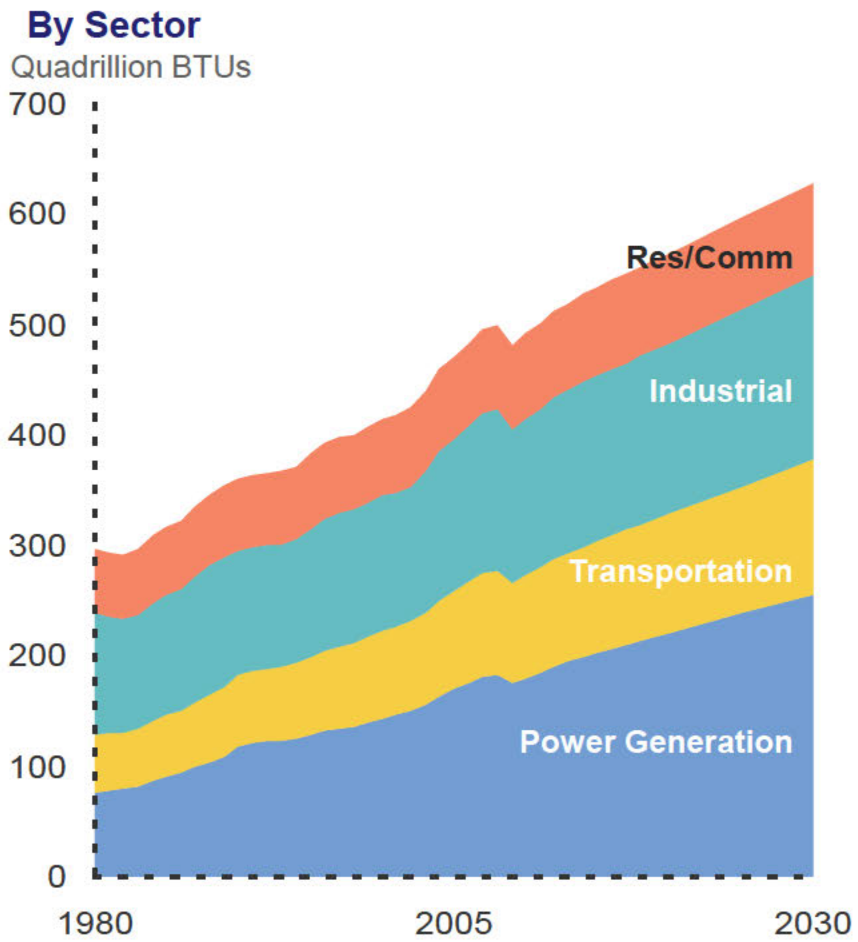
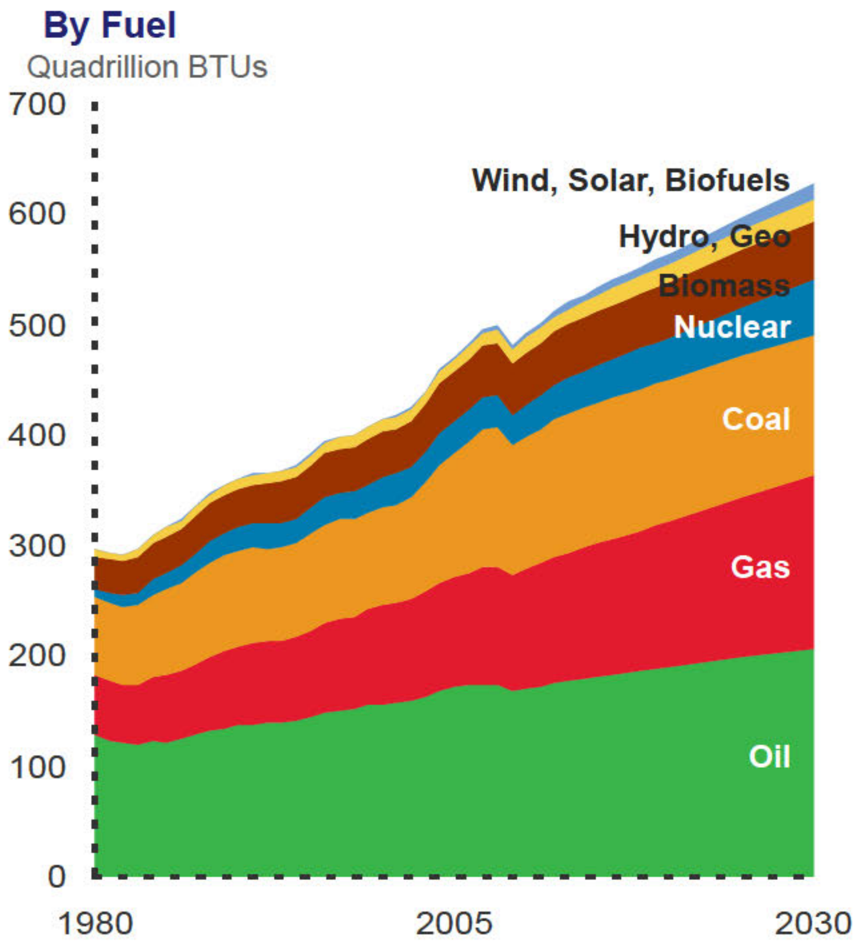
Global Energy Demand and Supply





Courtesy of ExxonMobil. IEA's Outlook = very similar.

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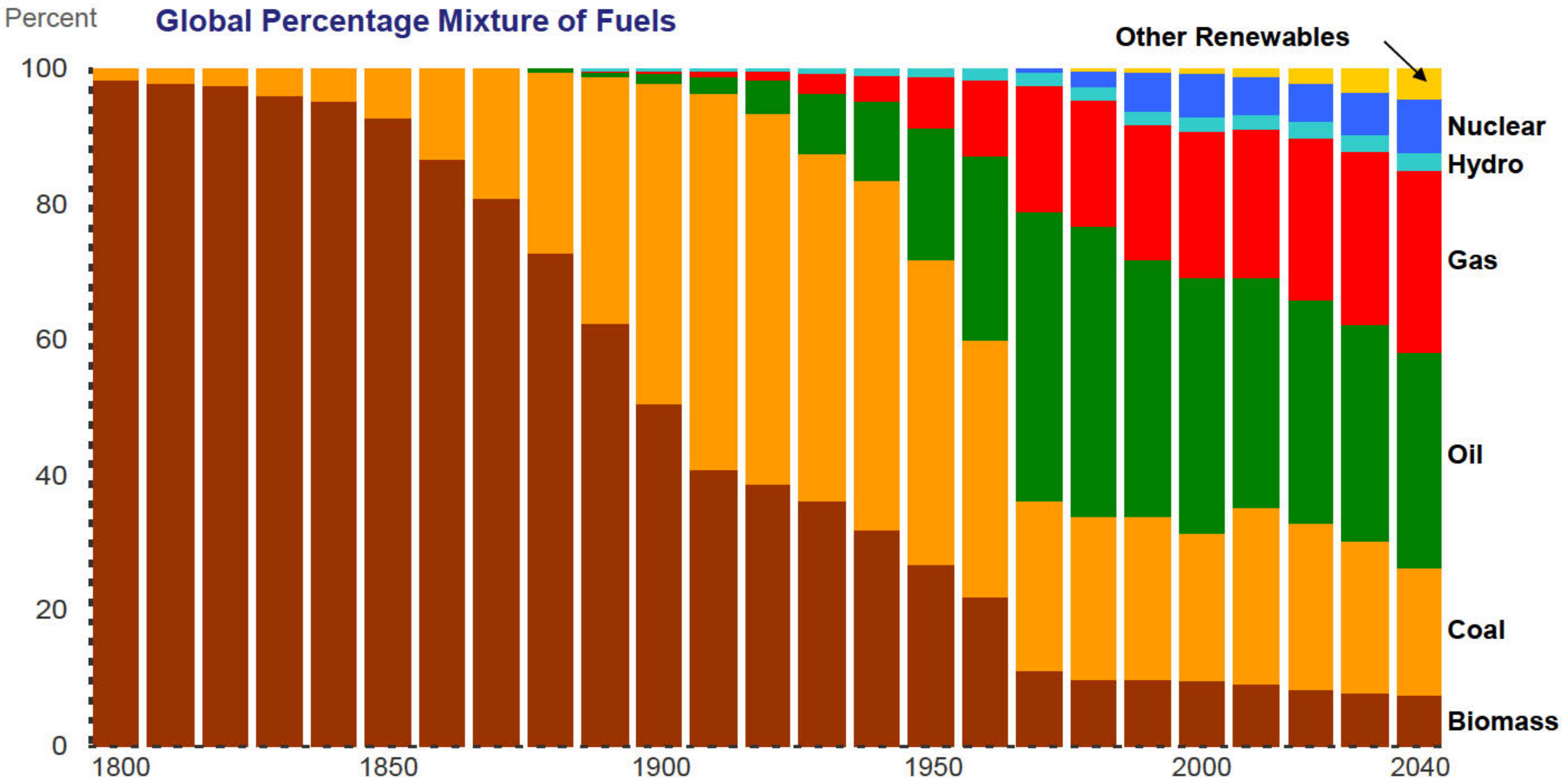
Energy Use Evolves Over Time



Source: Smil, *Energy Transitions* (1800-1960)

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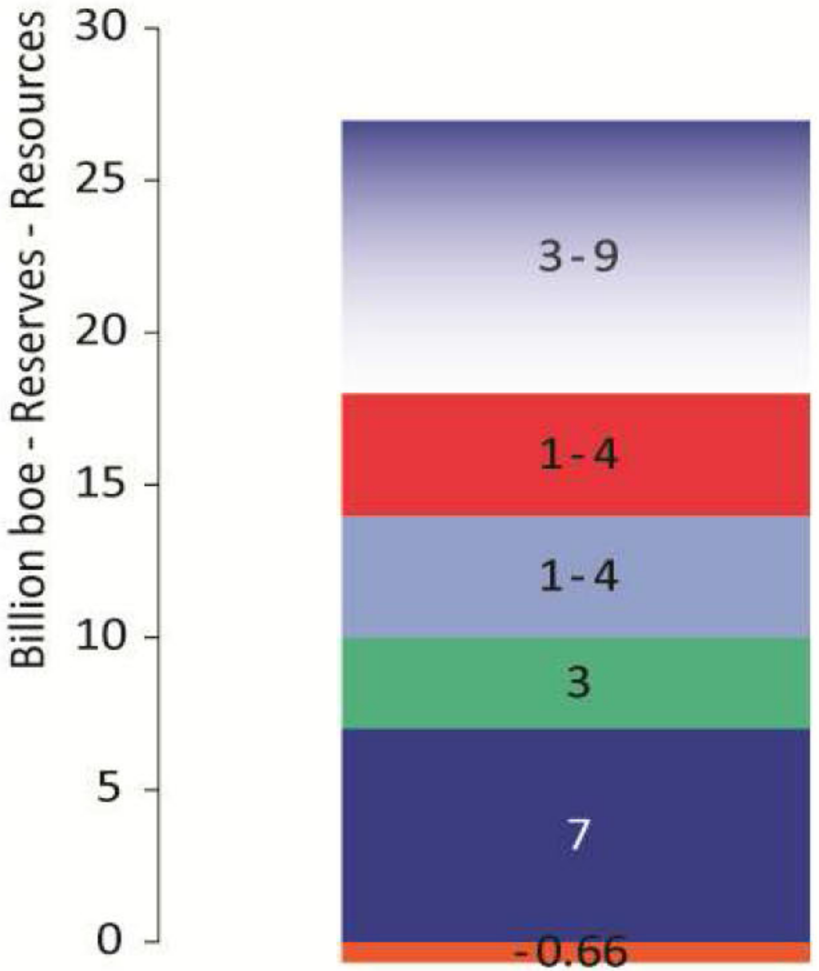
UKCS Reserves and Resources (forecast)



As at 31st December 2011:
> 41 billion boe produced so far
from UK's continental shelf
~ 15-25 billion boe to be produced

- Yet to Find
- Undeveloped Discoveries
- Possible
- Probable
- Existing Fields and Sanctioned Investments
- Production in 2011

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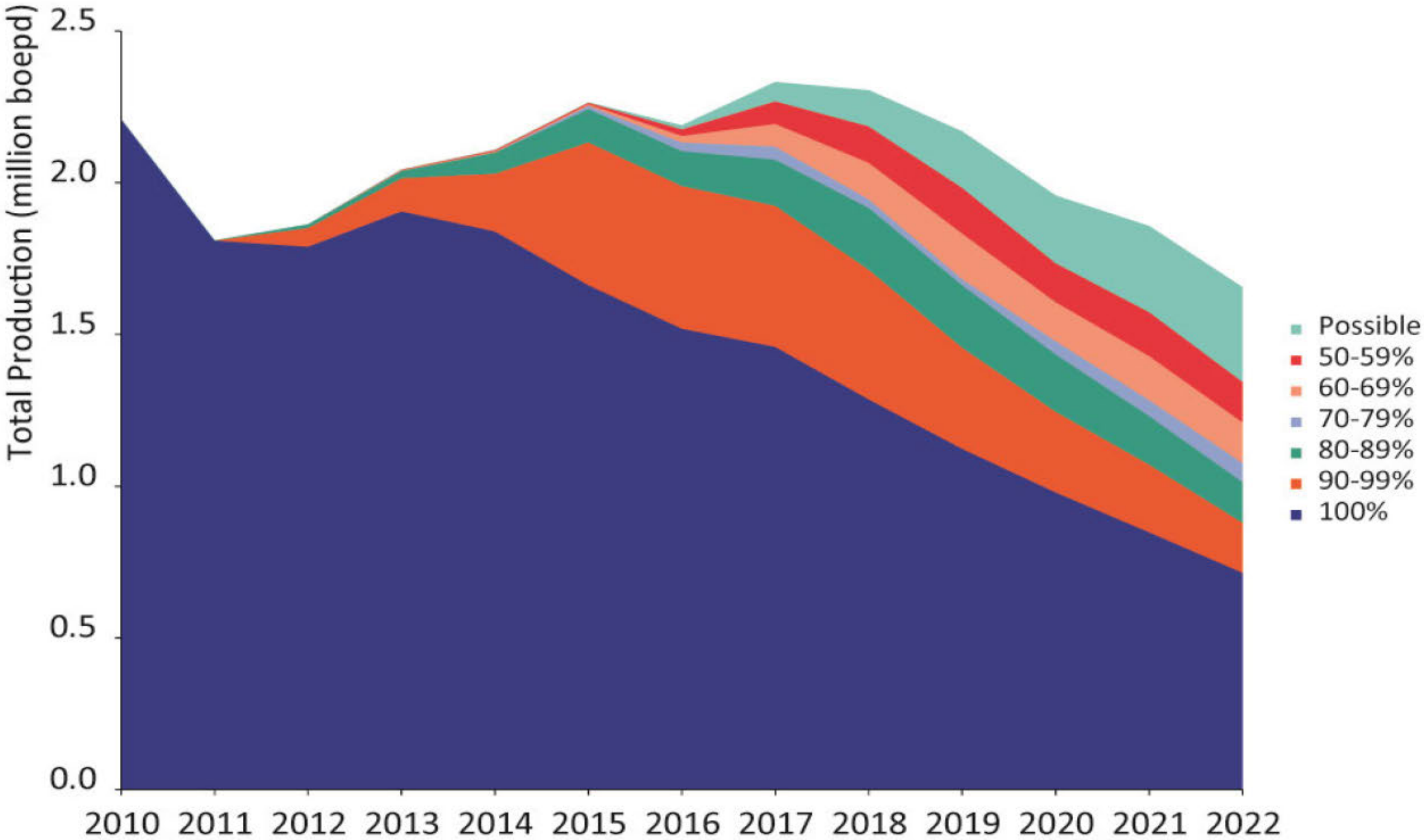
UKCS Production Forecast (oil and gas)



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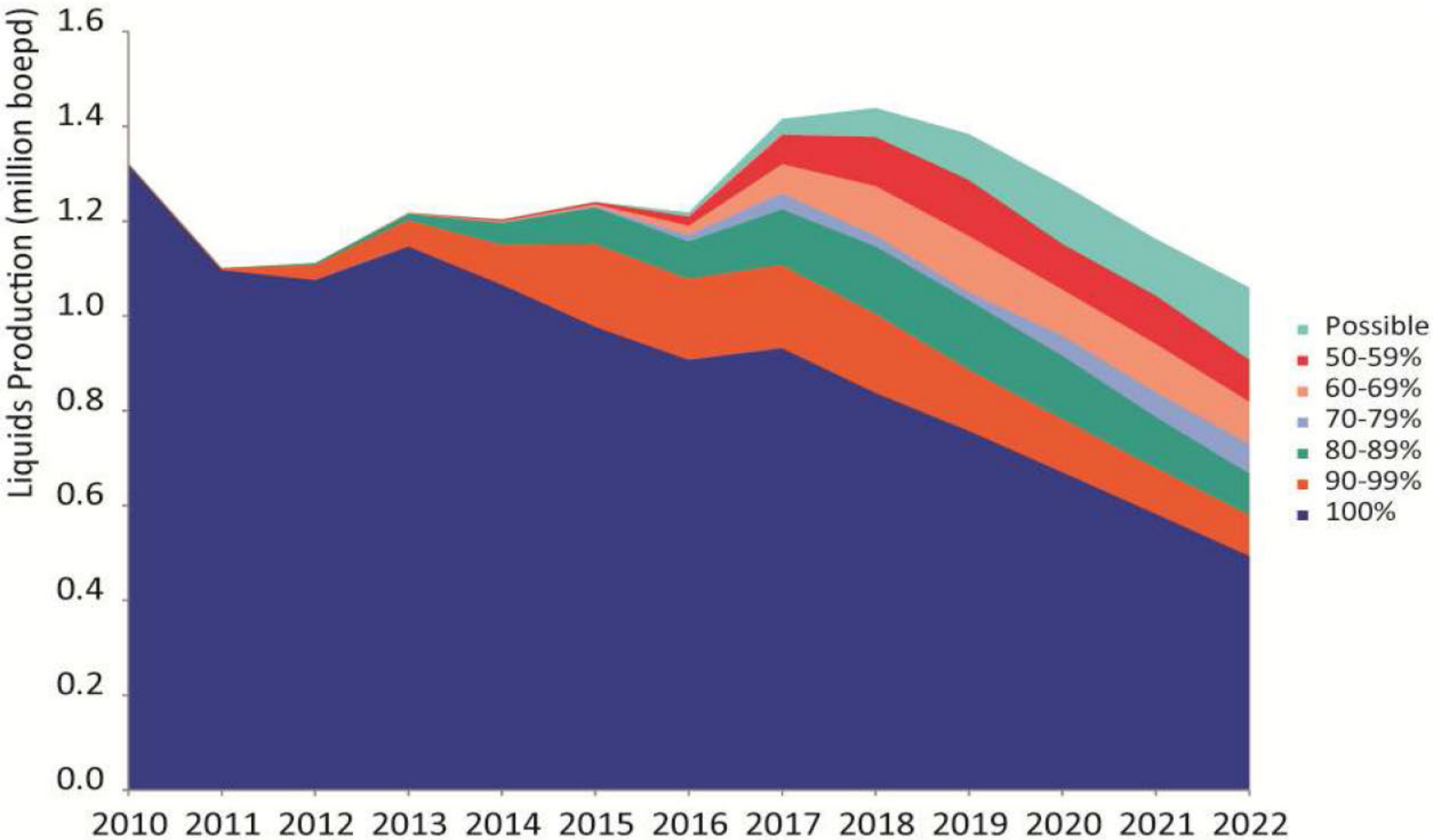
Production Forecast (oil and gas liquids)



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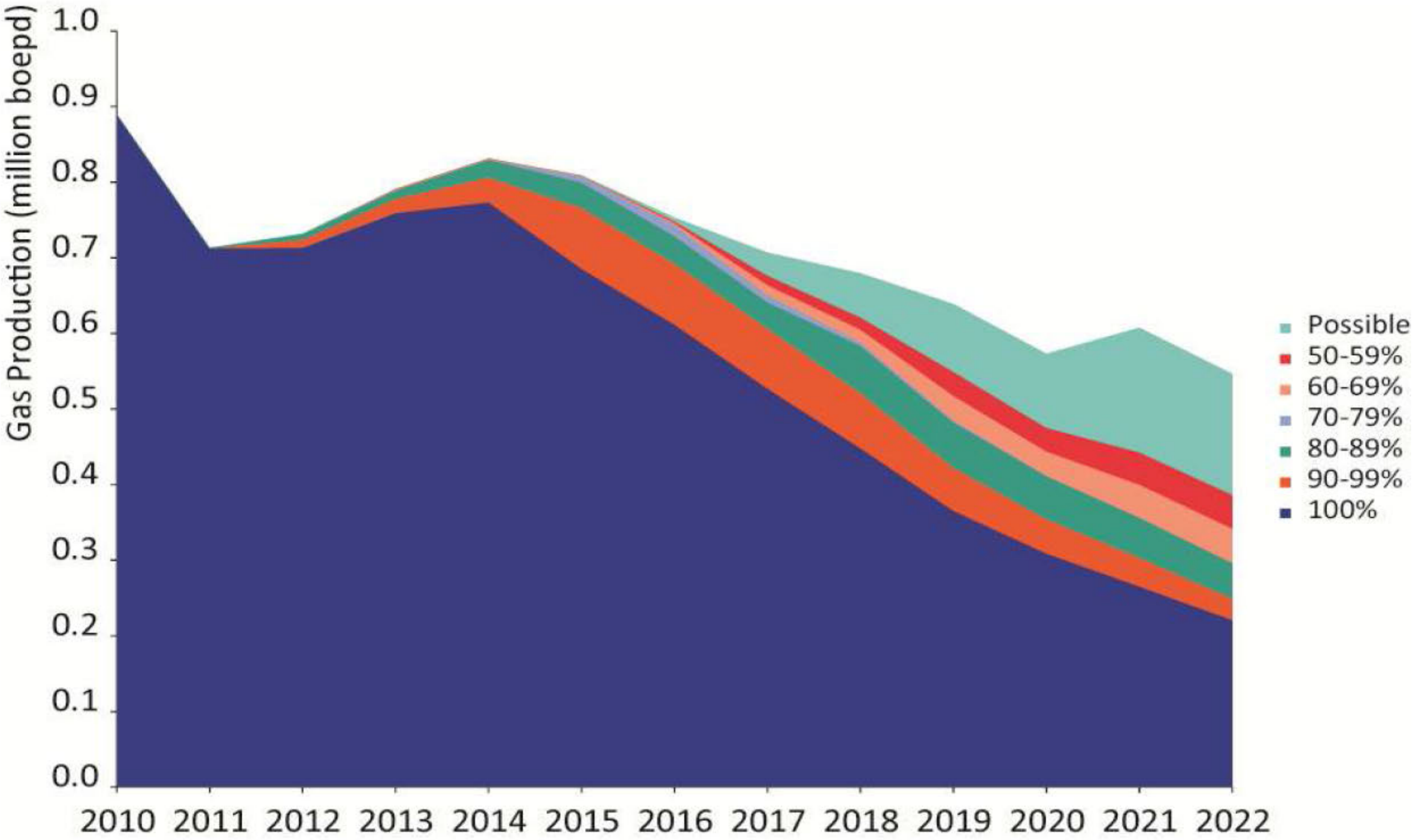
Production Forecast (gas)



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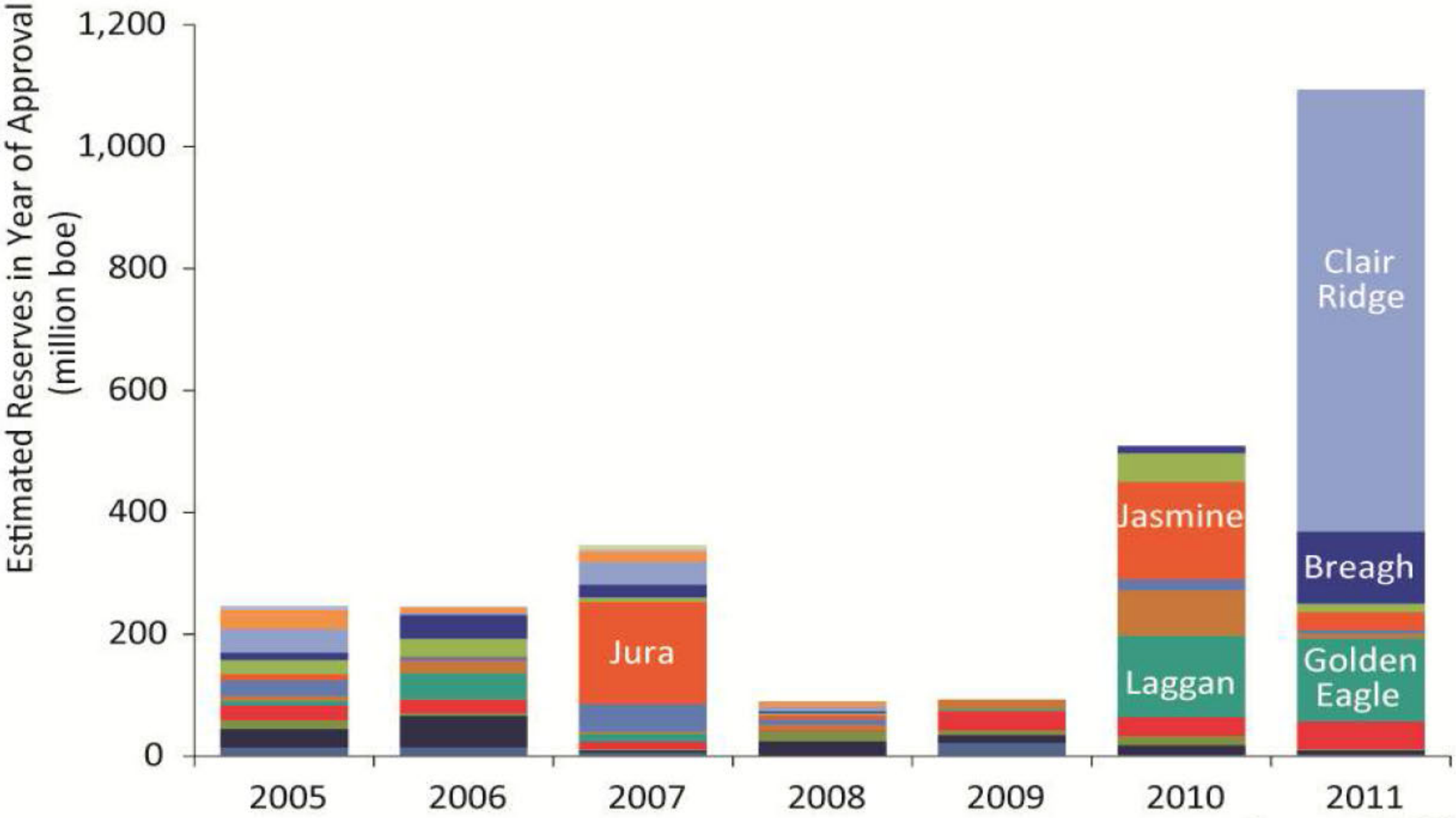
Estimated UKCS Reserves Approved for Development by DECC, in Year Approved



Source: DECC

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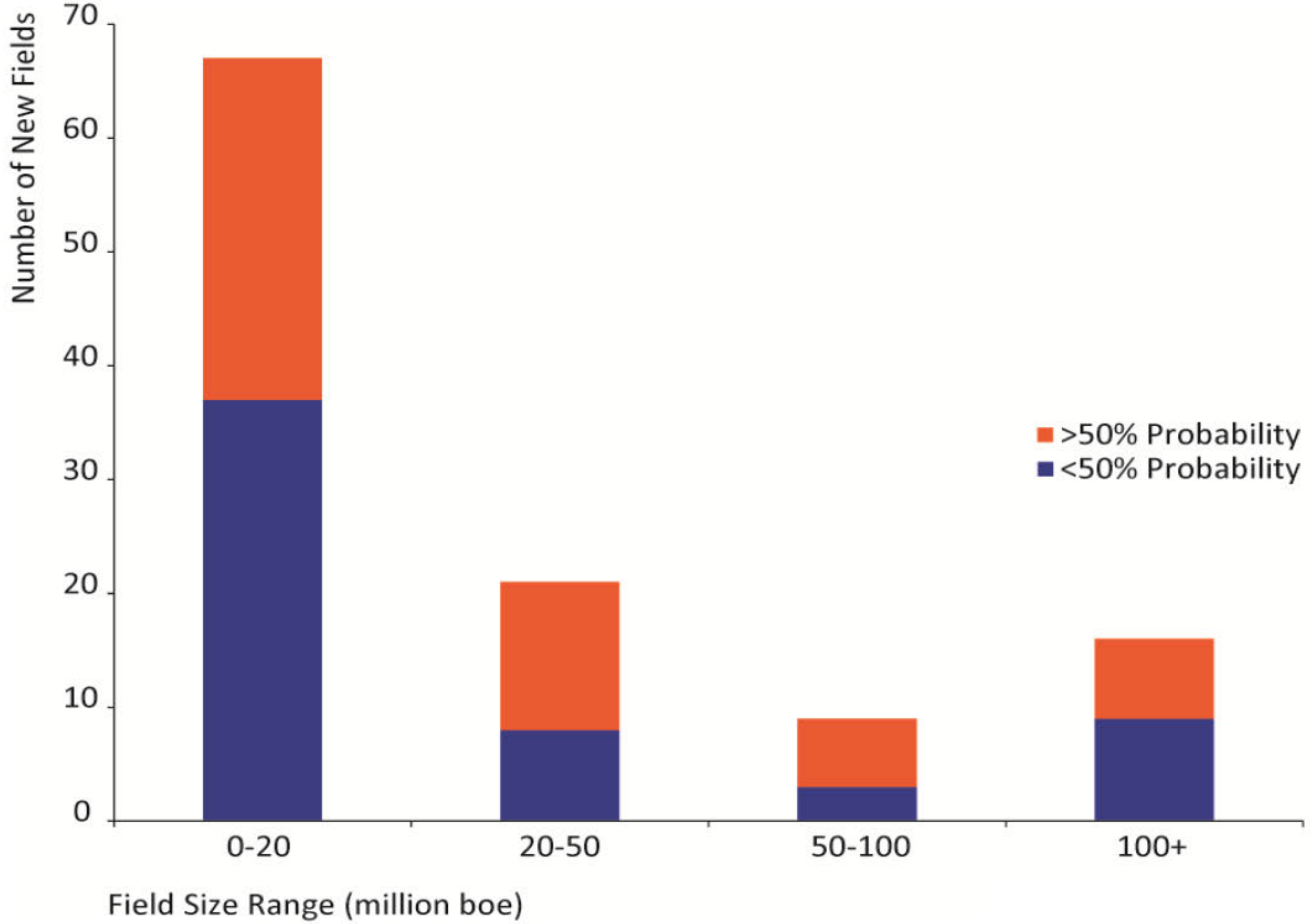
Potential New Fields By Size



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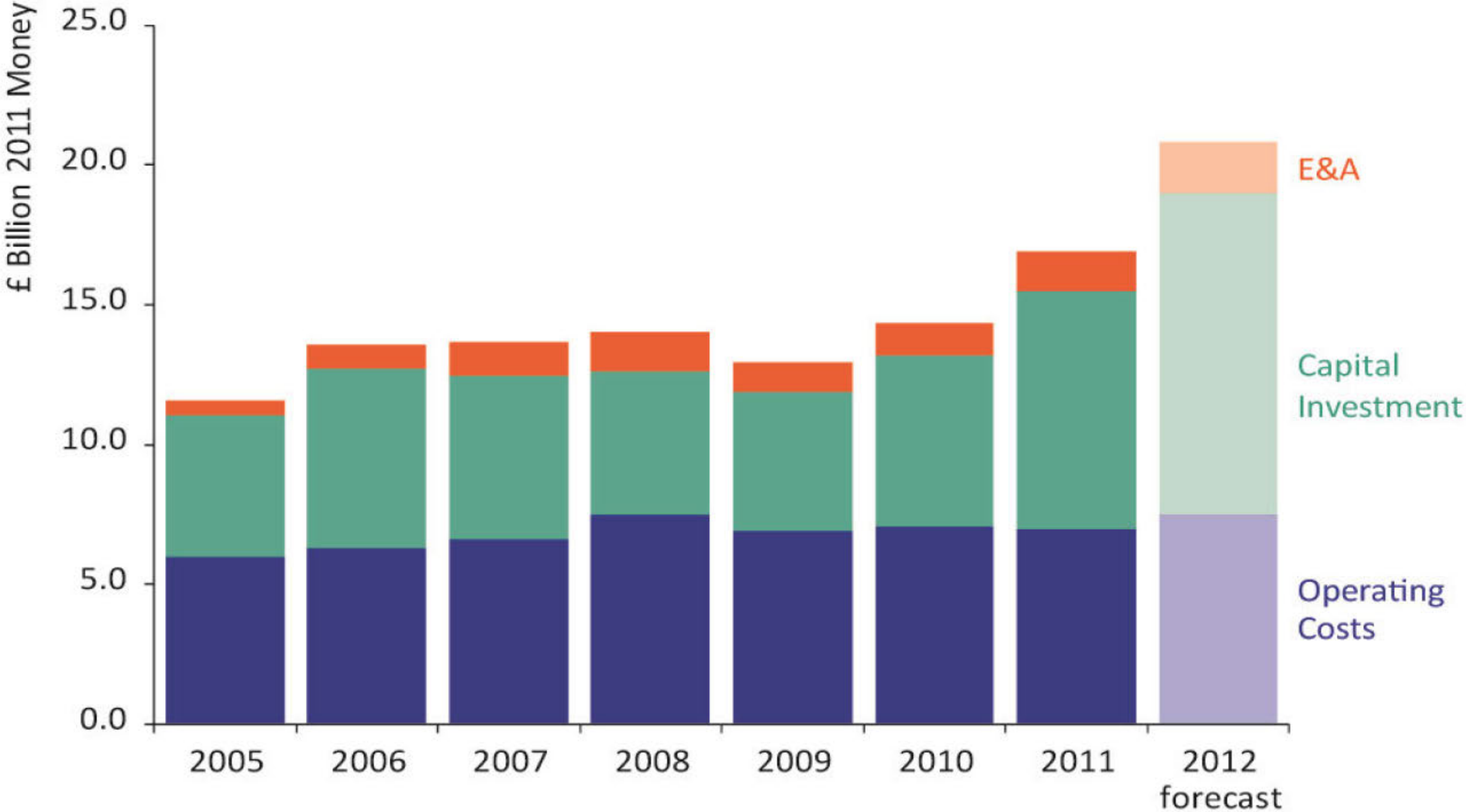
UKCS Expenditure, Actual and Forecast



Source: DECC/Oil & Gas UK

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UKCS – What Future? Closing Thoughts

- In 2011, UKCS production met ~50% of our total energy requirements and >60% of oil and gas demand
- Could still satisfy ~50% of oil and gas demand in 2020, **IF** investment maintained and decline in reliability reversed
- Could still be producing through 2040s, even to 2050
- Total production to end 2011 some 41 billion boe, with 15-25 billion boe forecast as remaining, but need more E&A drilling
- Sector remains biggest industrial investor in the economy – total capex over 40+ years >£300 billion (2011 £s to end 2011)
- Total tax paid on production >£300 billion (2011 £s to end 2011)
- Tax system needs further change to recover the 15-25 bn boe
- There's life in the old dog yet!!

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Standard Club Offshore Forum 2012

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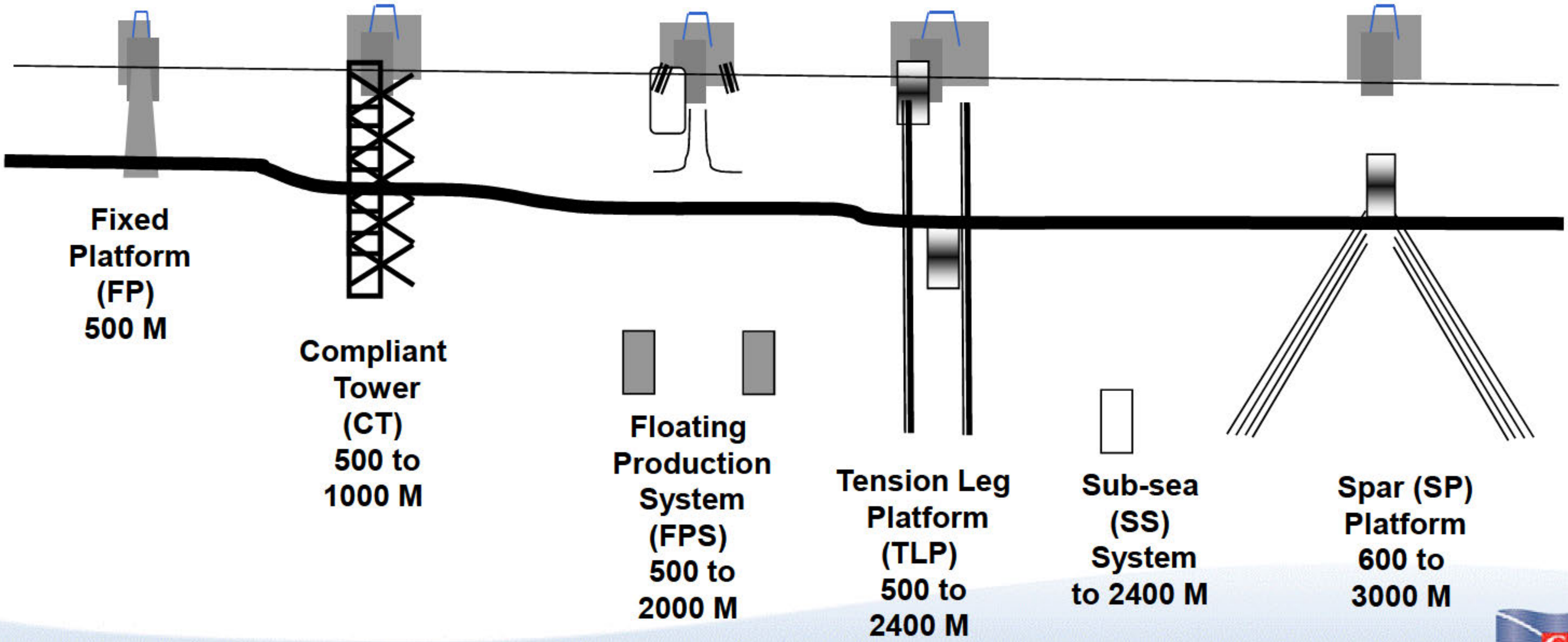
Offshore & The Global Energy Markets

3rd October 2012
Standard Offshore Forum 2012



Agenda

1. Market Trends
2. Offshore and the Energy Markets
3. Offshore Oil & Gas Production
4. Offshore Regional Trends
5. Offshore Fleet & Structures
6. Conclusions

1. Offshore Market Trends

Offshore Market (Rates)

		Mar-11	Sep-11	Mar-12	Sep-12
Jack-Up	$/day	131	139	165	160
Floater	$/day	410	445	521	537
DSV	Index	142	163	166	166
MSV	Index	114	130	137	137
ROV	Index	121	135	141	141
Accommodation	Index	100	102	104	106
AHTS, 12 Mth TC	$/day	43,625	46,950	46,000	46,350
PSV, 12 Mth TC	$/day	21,625	29,950	27,500	28,600
Index (Mar-2011=100)		100	113	118	119

Leading Indicators

Leading Indicators of Offshore Activity

	2011	Sep-12	Chng
MDU Orderbook	136	195	UP
Deepwater Rig Utilisation	82%	98%	UP
AHTS 5yo>NB Premium	89%	90%	UP
Oil Price	$110	$113	UP
Gas Price	$4	$2.5	DOWN
Barclays E&P	4%	5%	UP
IEA LT Energy Dem F'cast	4.6%	4.7%	UP
Rig Moves, latest quarter	289	341	UP
Oil Price Forecast, long term	115	115	SAME

Source: CRSL

Oil Price Scenarios & IEA Scenarios

- current policies scenario: price pushed up to $140/barrel in 2035 (at 2011 constant prices)
- New policies take the price down to $113/barrel
- The Carbon 450 Scenario takes the price down to $90/barrel

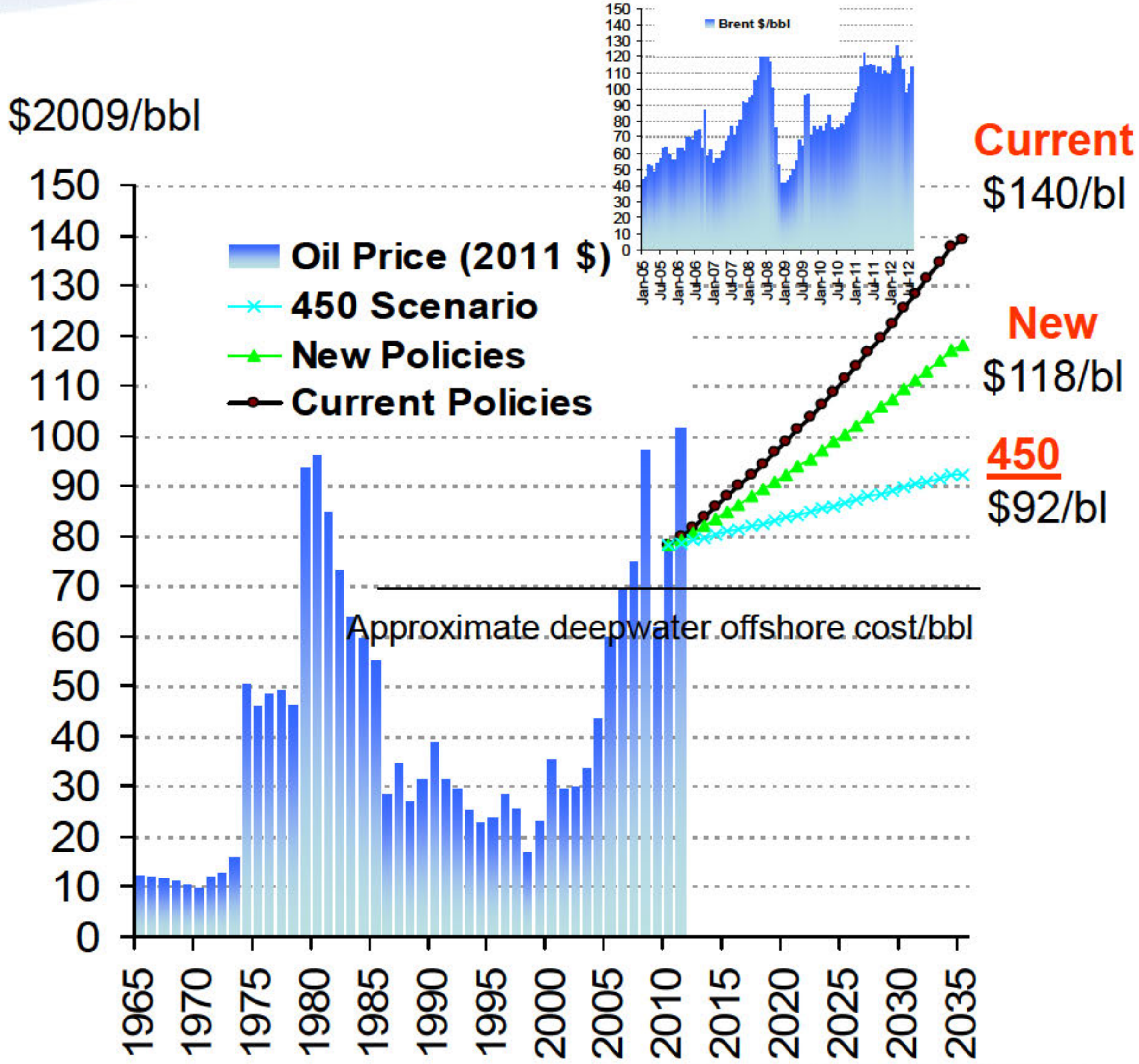


Figure 3: The IEA Oil price scenarios 2011

Offshore Investment & Oil Prices

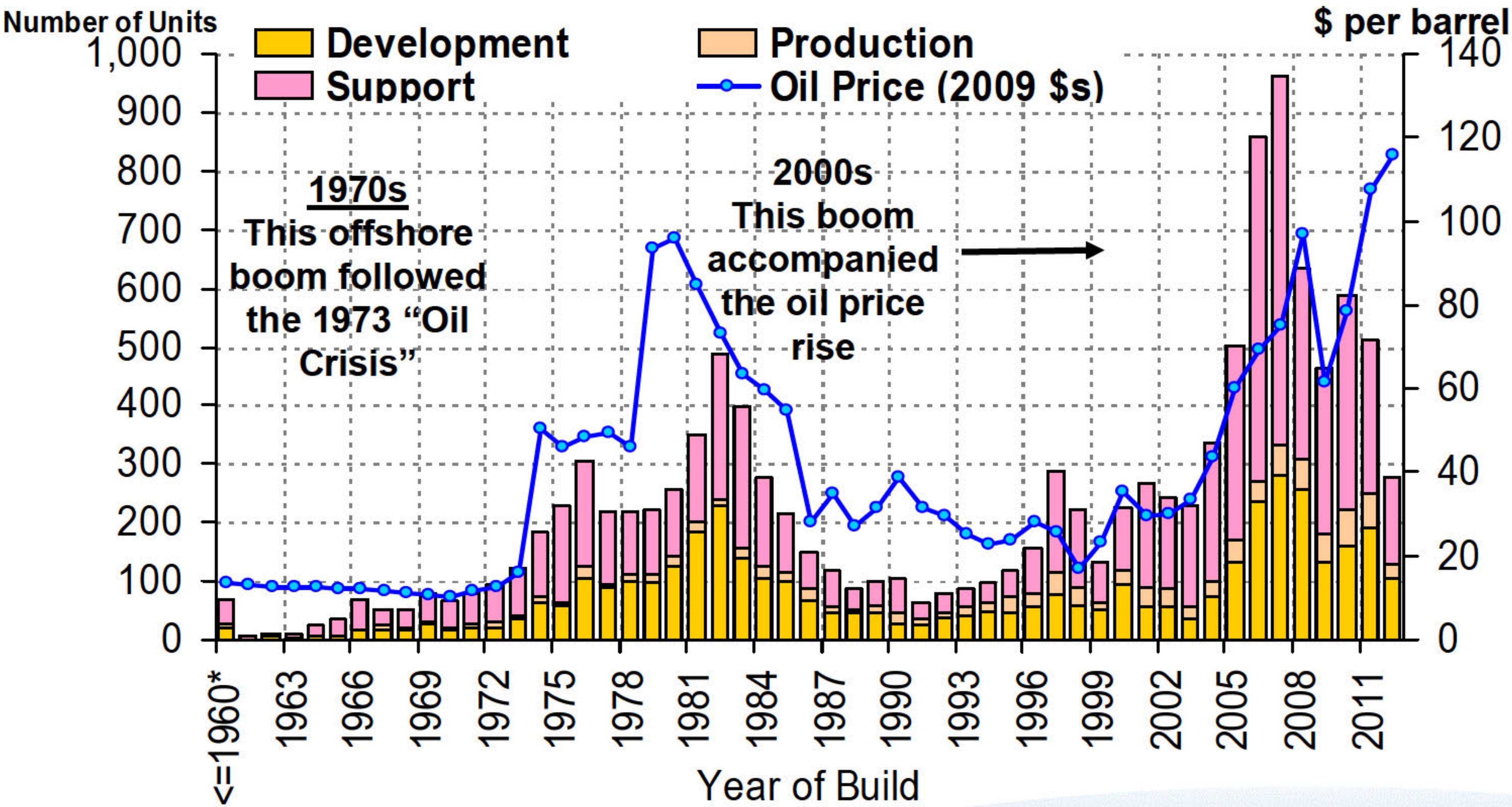


Figure 2: Age profile of mobile offshore fleet (11,678 structures) on 1 Sep 2012

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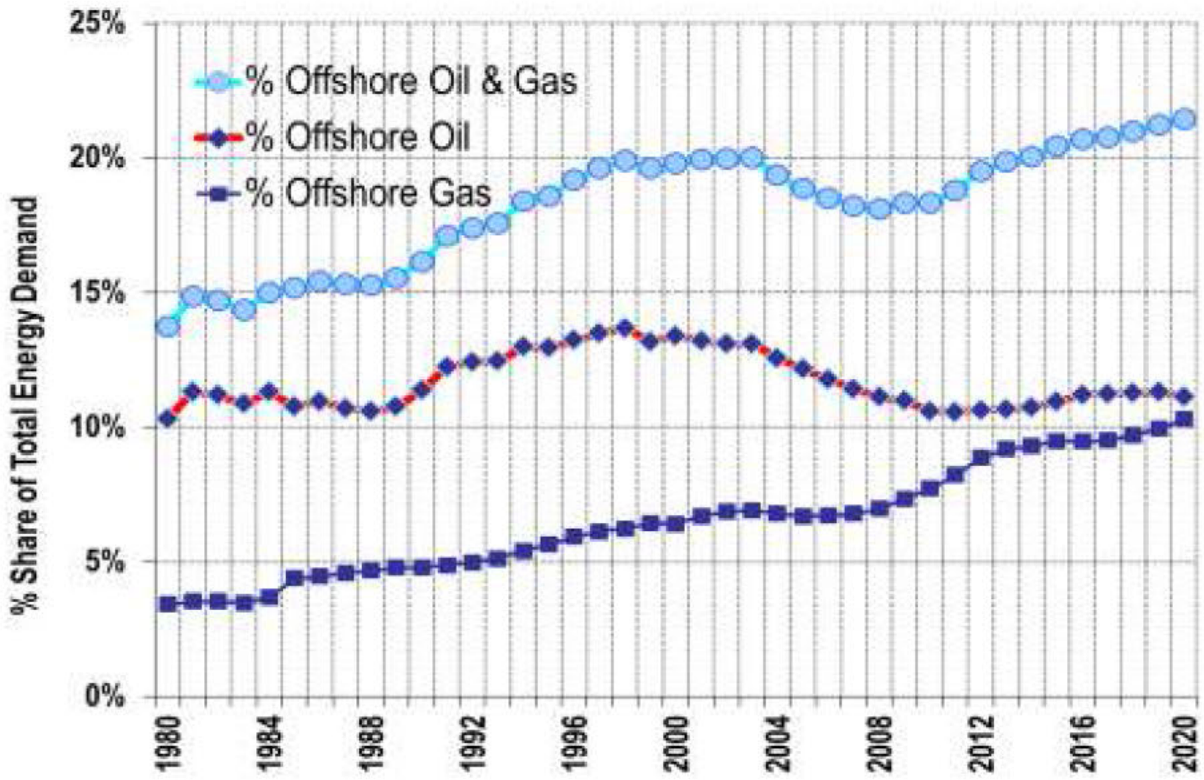
2. Offshore and the Energy Markets

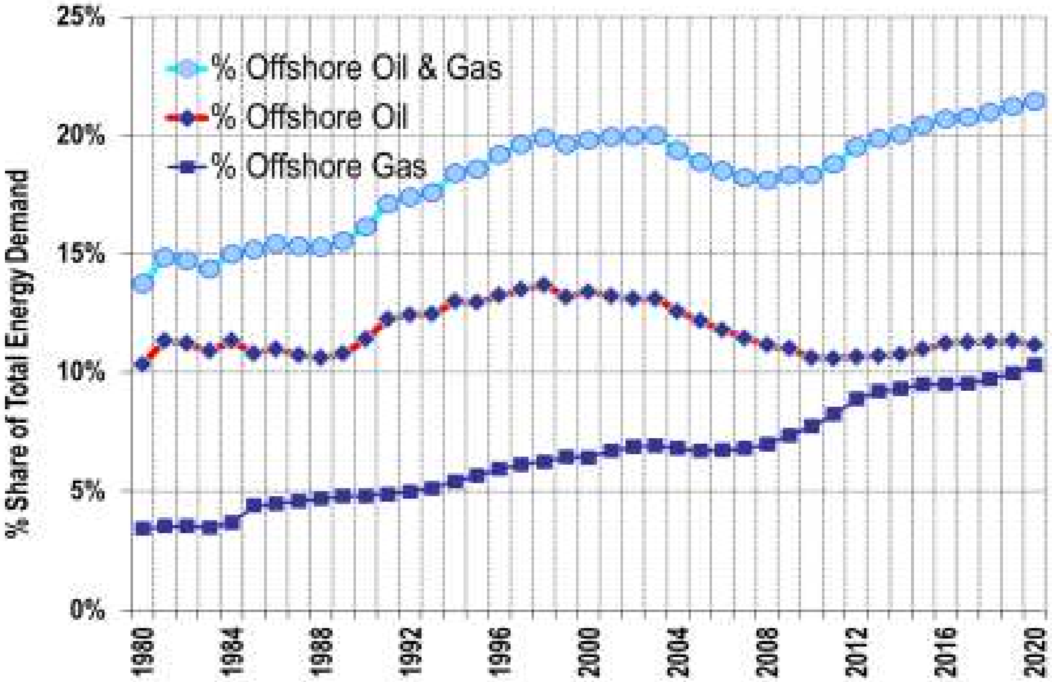


Global Energy Outlook – Steady Demand Growth

Global Energy Demand/Supply Projections

Source	Period	Source Date	Oil	Gas	Coal	Nuclear	Hydro	Renewables	Biofuels
CURRENT SHARE		**Jul-12**	**33%**	**24%**	**30%**	**5%**	**6%**	**2%**	
BP	2010-2030	Jun-12	0.8%	2.2%	1.1%	2.5%	2.0%	9.3%	6.3%
Exxon	2005-2030	Aug-11	0.8%	1.8%	0.5%	2.3%	2.2%	9.6%	
IEA	2008-2035	Dec-11	0.5%	1.4%	0.6%	2.2%	2.0%	7.9%	1.7%
EIA	2008-2030	Aug-12	1.0%	1.6%	1.5%	2.4%			
OPEC	2010-2035	Jul-12	1.4%						
Statoil	2010-2030	Nov-11	1.5%	2.2%					
Mean of Forecasts			1.0%	1.8%	0.9%	2.4%	2.1%	8.9%	4.0%

Offshore Energy Within the Global Context



Offshore Oil and Gas Shares

	1980	2010	2020
Oil % Offshore	22%	31%	33%
Gas % Offshore	28%	31%	39%

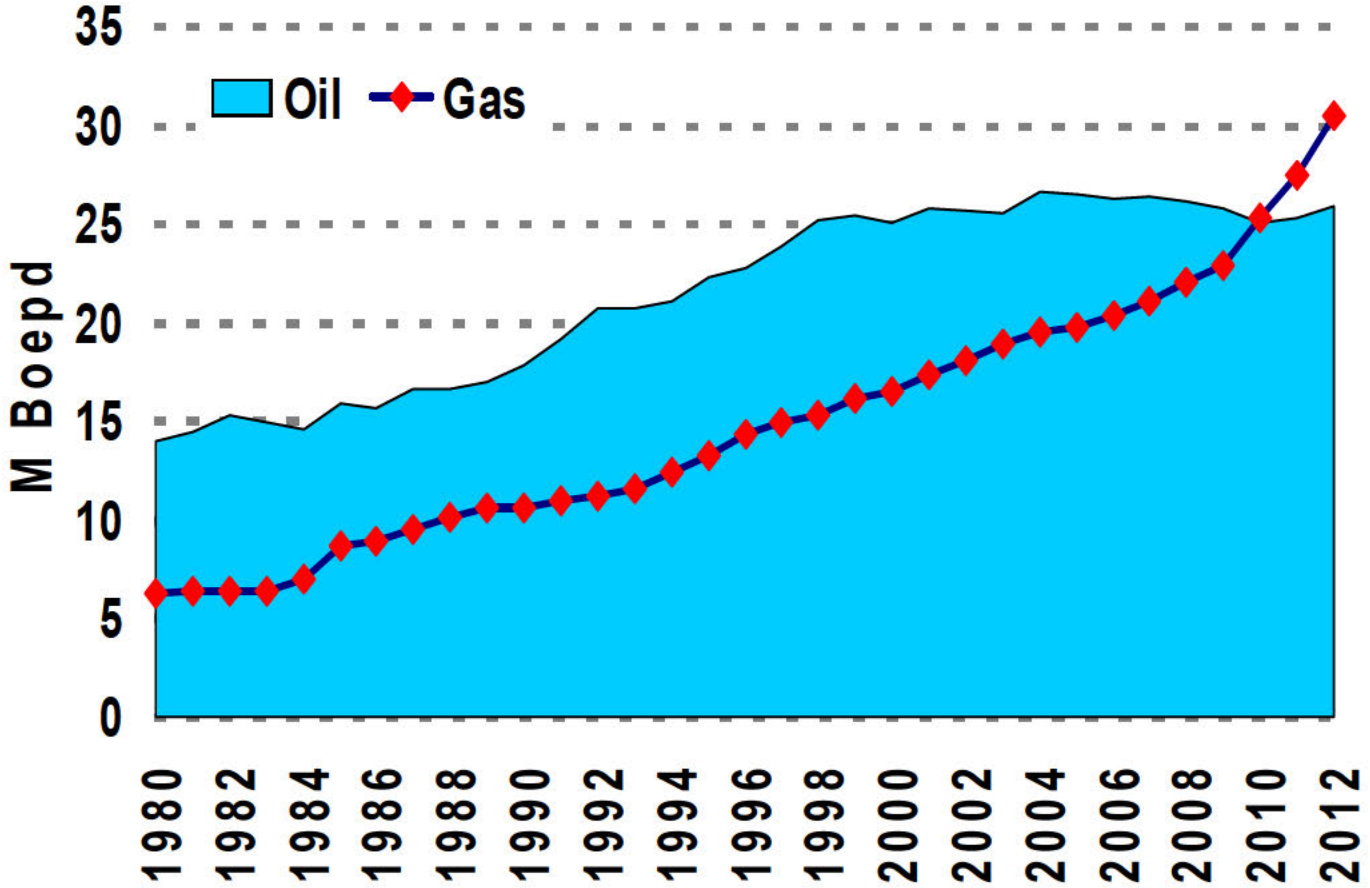
Offshore Energy Shares of Total Energy

	1980	2010	2020
Total Energy % Offshore Oil	10%	10%	11%
Total Energy % Offshore Gas	3%	8%	10%
Total Energy % Offshore O & G	13%	18%	21%

Also: Offshore Wind Capacity
Nearly 4,000 MW

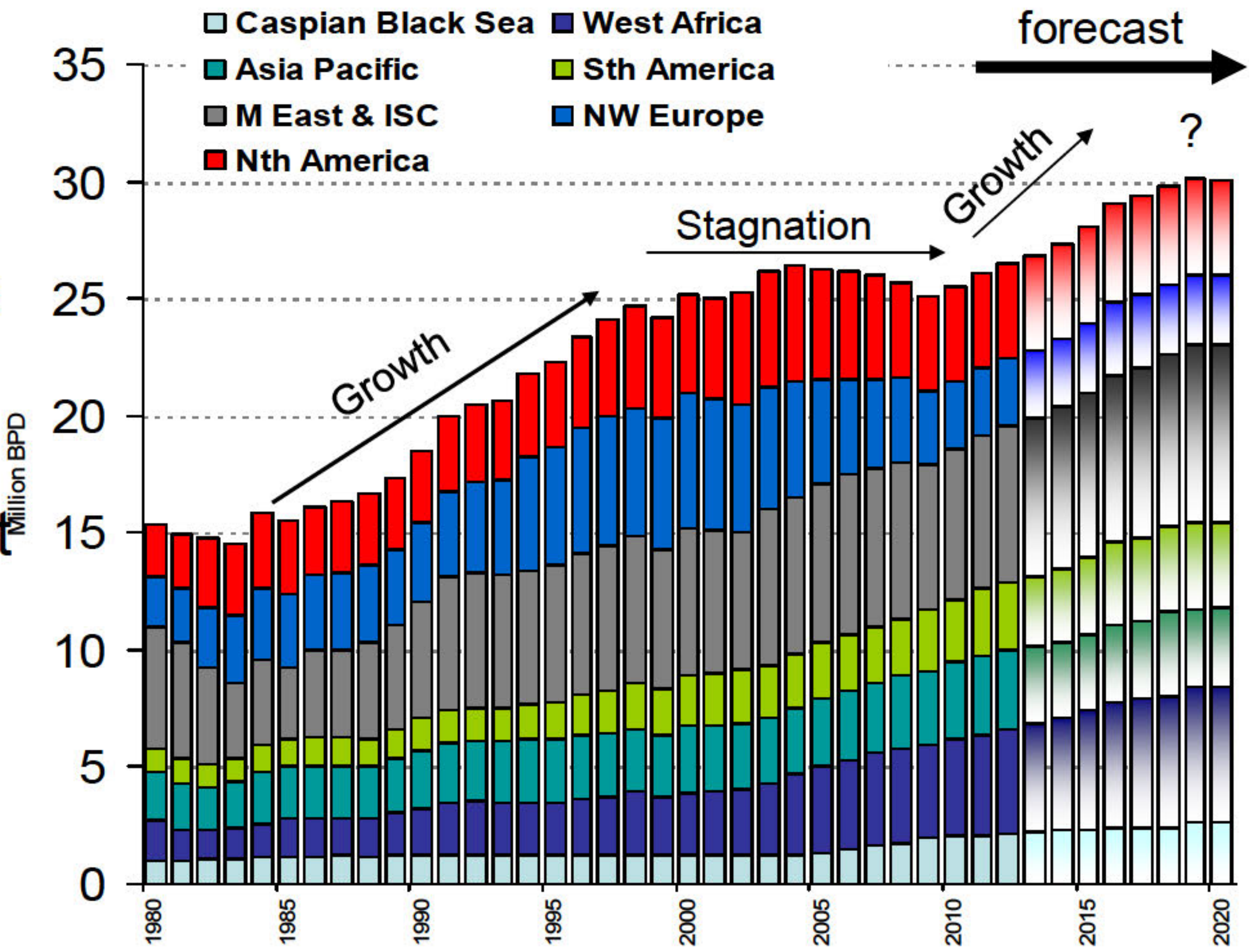
Source: CRSL

3. Offshore Oil & Gas Production



Offshore Oil Production & Forecast

- Production fell between 2005 and 2010, but we expected growth to 30m bpd the next five years
- South America, Middle East and West Africa contribute the most absolute growth.
- North Sea & US Gulf steady or declining but still important.



Updated Sept 2012

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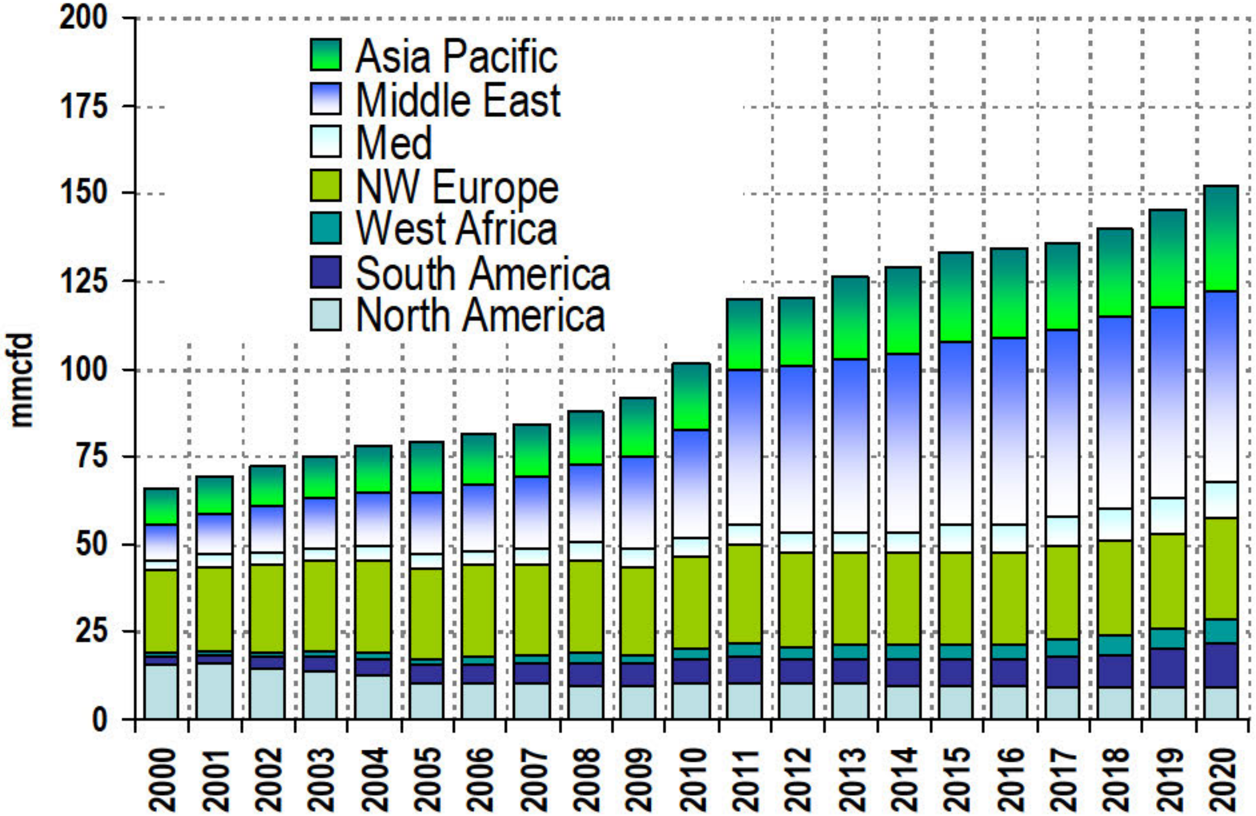
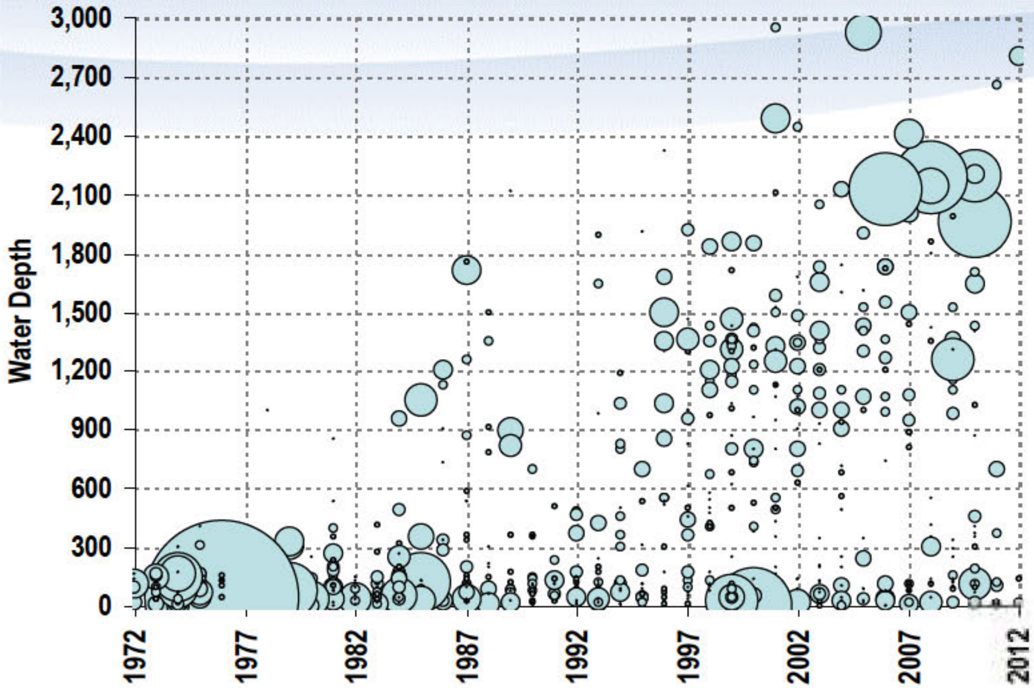
Offshore Gas Production Forecast

- Offshore gas ramp up rates far quicker.
- Production reaches 150 mmcfd by the end of the decade.
- Asia Pacific and Middle East are growing strongly.
- Major Brazilian fields expected in the second half of the decade.

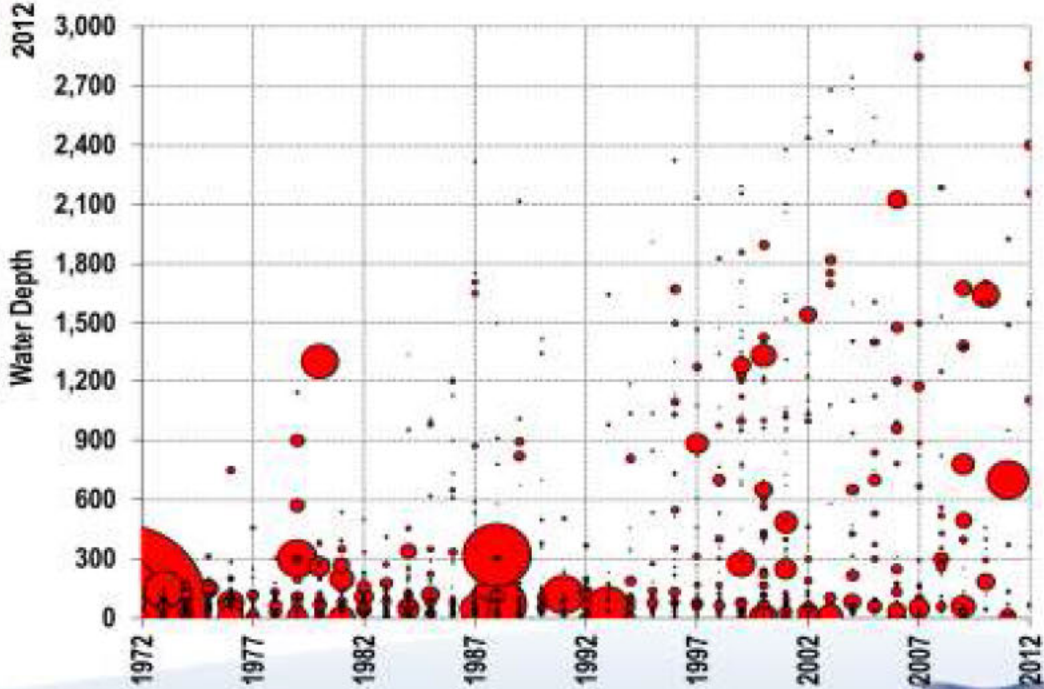


Source: CRSL



Offshore Oil Discoveries

Offshore Gas Discoveries



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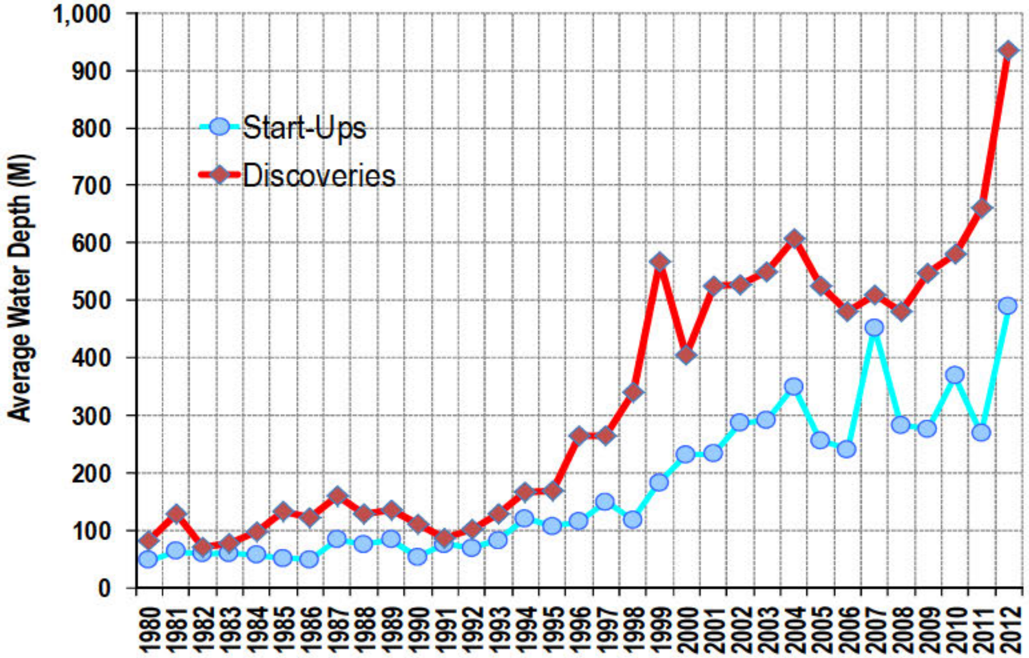
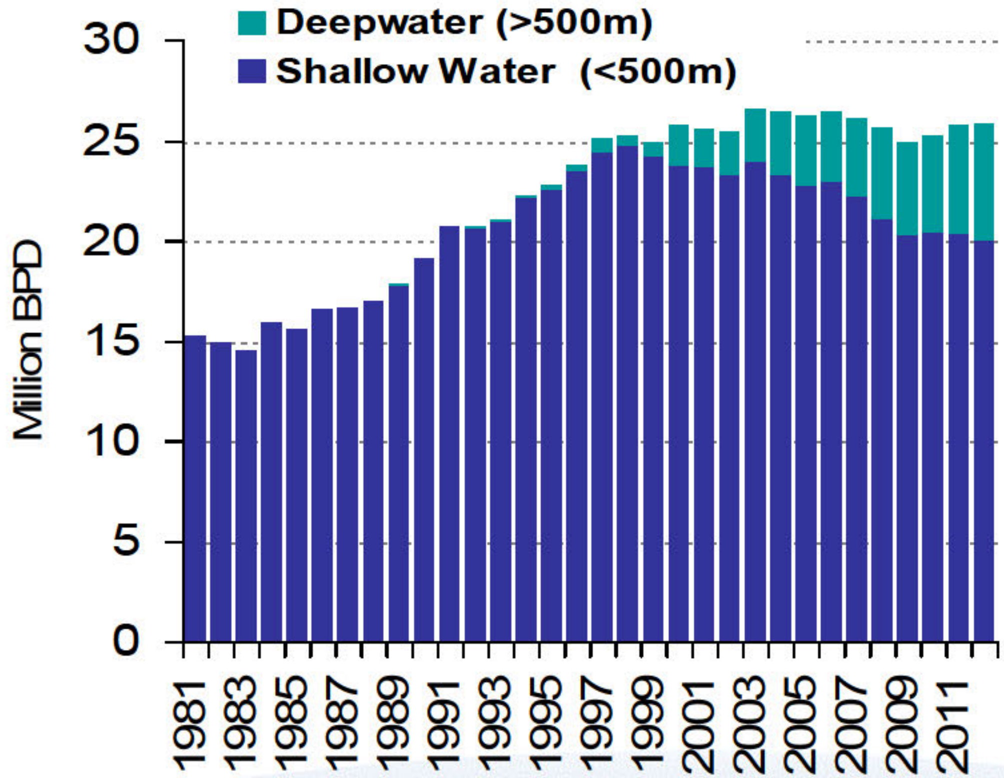
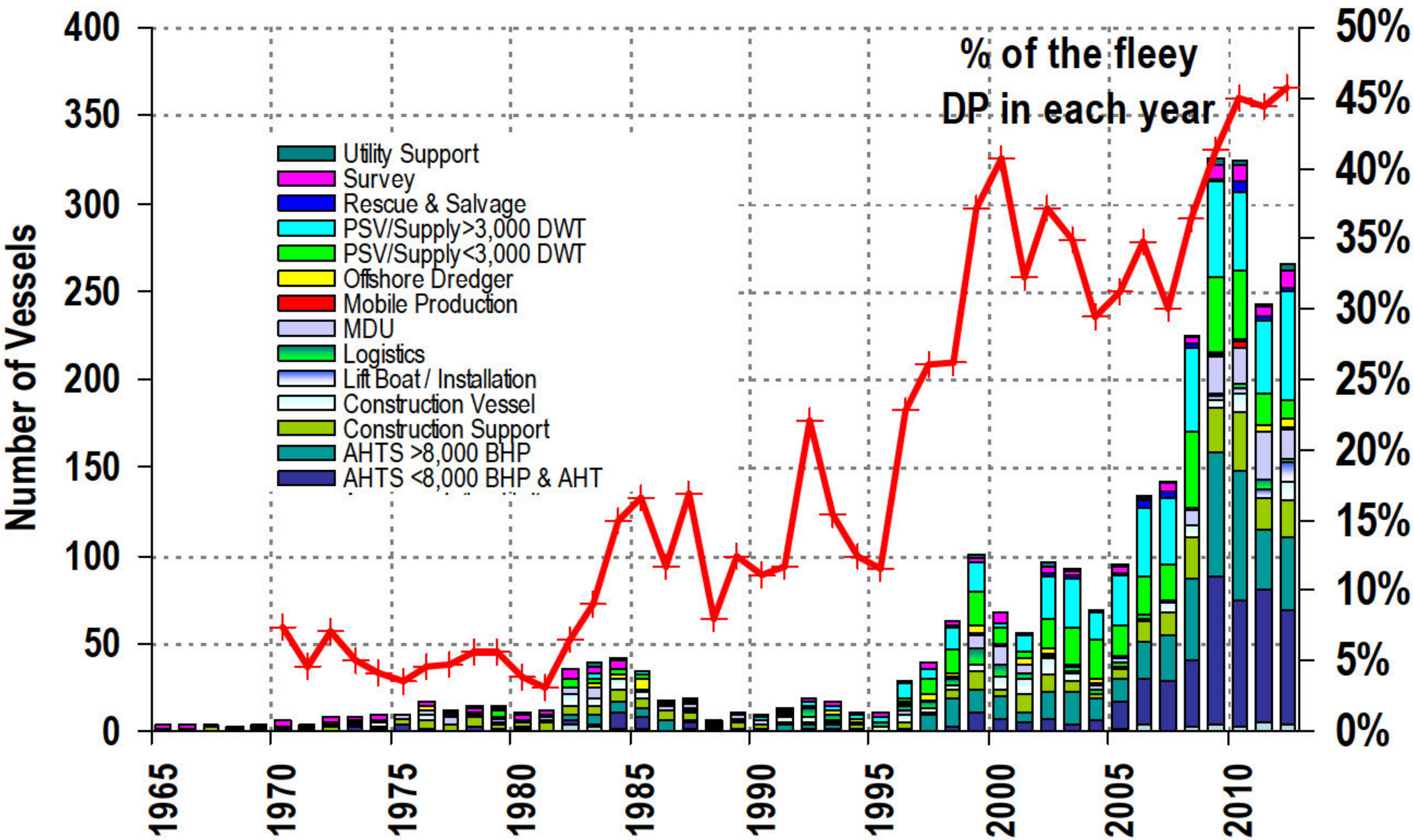
Offshore Getting Deeper





Source: Clarkson Research

DP Fleet Age Profile



Source: CRSL

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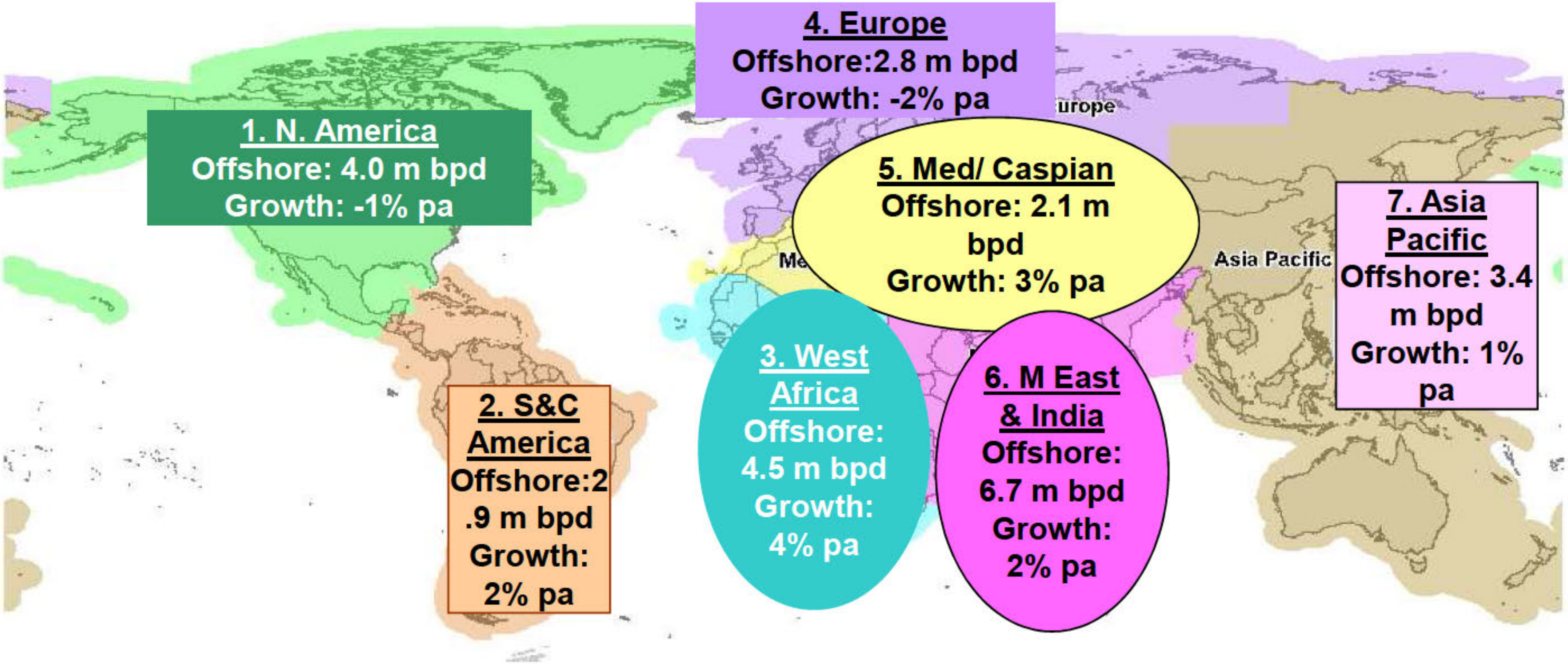
4. Regional Development Trends

- Offshore is a regional market with specific requirements in each
- Following trends and forecasts is important

"Development trends help identify future investment needs"

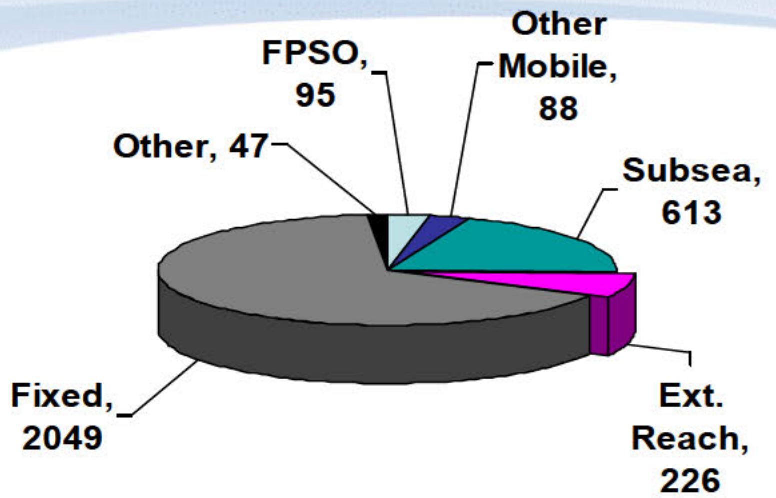
World Oil Producing Regions








Producing Region…	No. Offshore Fields by Development Type					
	FPSO	Other MOPU	Subsea	Ext. Reach	Fixed	Other
USA Gulf of Mexico		42	184	9	634	
Mexico Gulf of Mexico			1	1	55	1
EC Canada	2		1		7	
USA West Coast				1	15	
USA Alaska				3	13	5
N AMERICA	**2**	**42**	**186**	**14**	**724**	**6**
EC Sth America	24	8	24	7	40	3
Caribbean			2	9	46	4
WC Sth America					21	
S&C AMERICA	**24**	**8**	**26**	**16**	**107**	**7**
West Africa	24	7	44	7	242	11
South Africa		1	6		1	
AFRICA	**24**	**8**	**50**	**7**	**243**	**11**
North Sea	17	13	224	106	264	
Western Europe			6	6	13	2
Russian Arctic			2	1		
Baltic		1			1	
N&W EUROPE	**17**	**14**	**232**	**113**	**278**	**2**
Mediterranean	1		31	12	149	4
Caspian/Black Sea		3	7	2	29	10
MEDITERRANEAN	**1**	**3**	**38**	**14**	**178**	**14**
Middle East		1	1	3	64	4
Indian Subcontinent	1	1	1	1	24	
East Africa			2			
MIDDLE EAST/ISC	**1**	**2**	**4**	**4**	**88**	**4**
SE Asia	6	10	40	32	297	2
Australasia	13		22	15	46	
China	3	1	15	9	83	1
Russian Far East				2	3	
Japan / Korea					2	
ASIA PACIFIC	**22**	**11**	**77**	**58**	**431**	**3**
TOTAL	**91**	**88**	**613**	**226**	**2,049**	**47**
Americas	*29%*	*57%*	*35%*	*13%*	*41%*	*28%*
Africa	*26%*	*9%*	*8%*	*3%*	*12%*	*23%*
Europe	*20%*	*19%*	*44%*	*56%*	*22%*	*34%*
Middle East/ISC	*1%*	*2%*	*1%*	*2%*	*4%*	*9%*
Asia Pacific	*24%*	*13%*	*13%*	*26%*	*21%*	*6%*



- Over 3,000 producing fields.
- Brazil biggest FPSO market, followed by Asia Pacific.
- North Sea largest subsea market in numbers terms.

Offshore oil fields under construction - league table Sep 2012

Offshore Fields Under Construction - September 2012

Rank	Country	Number of Fields	Av. Distance	Av. Water Depth (m)	DD Ratio	Large Fields
1	Brazil	30	154	1193	5502159	7
2	United States	15	204	1264	3864122	1
3	Angola	9	158	1562	2222884	
4	Norway	25	133	235	783011	
5	Australia	20	117	209	491470	5
6	United Kingdom	27	136	129	474176	
7	Malaysia	17	95	277	447588	1
8	Nigeria	9	54	495	241395	2
9	India	27	96	78	201554	1
10	Indonesia	13	77	192	191208	1
	Others (29)	**101**				**20**
	Total	**293**				**38**

Large Fields: >500 billion boe

Offshore oil fields under construction - league table Sep 2012

Offshore Fields Under Construction - September 2012

Rank	Country	No	Avg Dist to Shore (km)	Avg Water Depth (m)	DD Ratio	No of Large Fields
1	Petrobras	23	167	1,215	4,678,005	6
2	BP	10	165	895	1,473,856	
3	Chevron	9	149	952	1,277,752	5
4	Total	13	109	824	1,167,488	2
5	Shell	13	115	630	938,778	2
6	ExxonMobil	11	164	446	804,056	3
7	QGEP	2	185	1,550	573,500	
8	Statoil	13	126	266	436,440	
9	Anadarko	2	180	1,086	391,258	
10	Hess	2	132	1,189	313,598	
11	ONGC	26	99	78	201,529	
12	Helix	1	230	823	189,265	
13	Maersk Oil	1	138	1,355	186,990	
14	Apache	5	97	370	180,137	
15	Eni	7	42	540	158,415	
	Others (78)	155				20
	Total	293				38

Major Projects at Appraisal, Pre FEED & FEED - league table

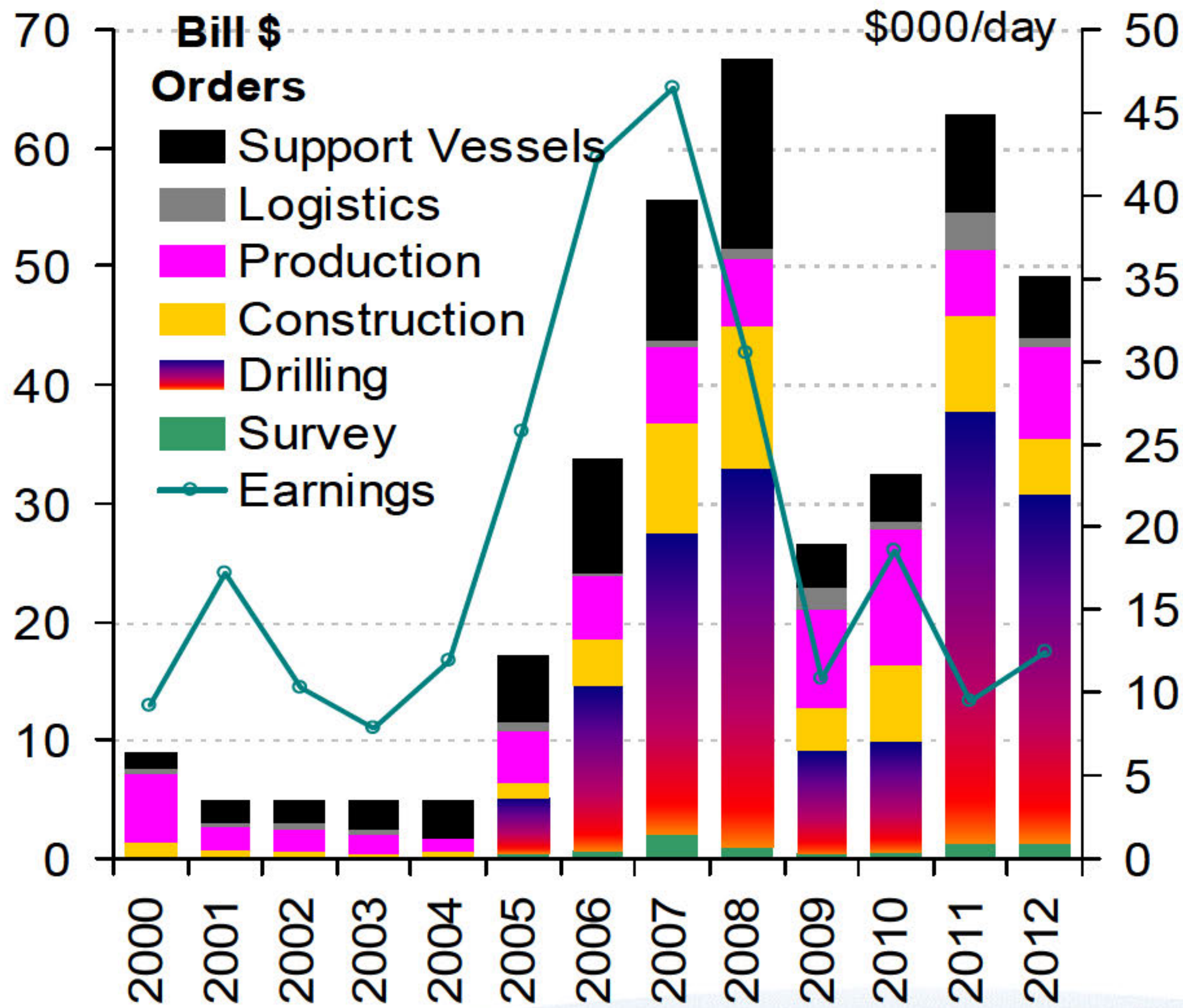
Projects in the Appraisal, pre-FEED & FEED Stage

	Country	No	Avg Dist to Shore (KM)	Avg Water Depth (M)	DDR	CAPEX (USD M) where	Oil Reserves (MM Bbl)	Gas Reserves (Bcf)
1	United States	10	220	1,738	3,824,480	16,000	4,303	122
2	Brazil	7	176	1,374	1,689,844	69,895	13,500	660
3	Angola	9	122	1,239	1,355,588	31,500		
4	Nigeria	8	106	1,303	1,100,115	30,300	2,677	4,000
5	Australia	8	224	481	861,761	36,440		50,157
6	Indonesia	4	126	568	285,704	30,500		58,600
7	Cyprus	1	152	1696	257,792			
8	Malaysia	3	101	763	230,527	3,000	808	
9	United Kingdom	5	126	297	186,390	18,492	1,103	879
10	Mozambique	2	38.5	1724	132,748	50,000		2000
11	Norway	3	159	263	125,555	6,000	1,950	1,550
12	Tanzania	1	85	1400	119,000	20,000		78
13	China P.R.	2	205.5	257	105,627		240	
14	Russia	1	283	320	90,560	15000		134200
15	Ghana	1	56	1427	79,912	4,000	400	
	Others (15)	18						
	Total	83						

5. Offshore Fleet & Structures

Investment In Offshore Vessels

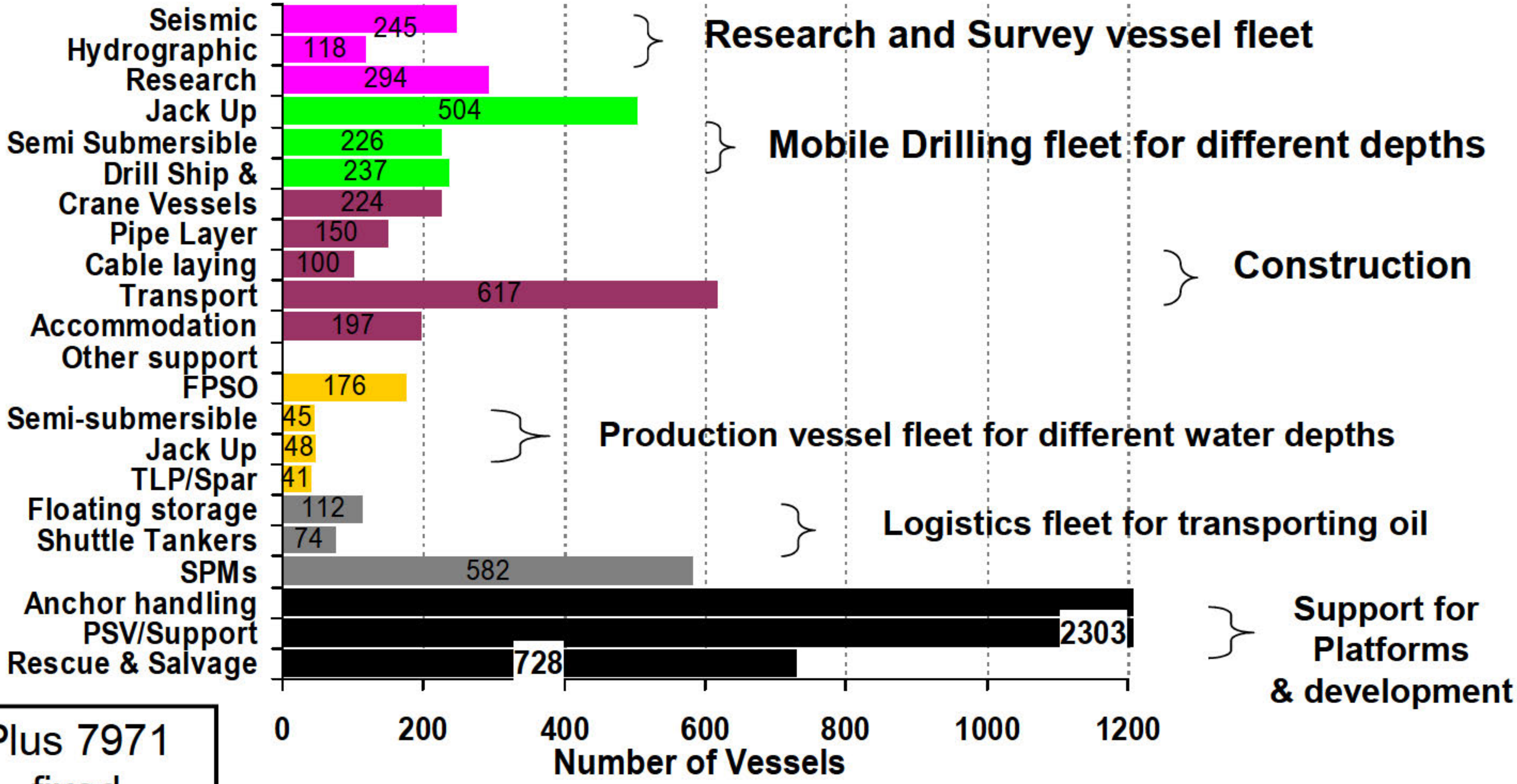
1. Between 2000 and 2010 the industry ordered $253 billion of offshore vessels
2. In 2009 investment slumped to USD 30 billion but increased to USD 41.5 billion in 2010 and USD 62.1 billion in 2011.
3. 2012 should beat 2011 and be close to the market peak.



Source: Clarkson Research Services Ltd

Offshore fleet by type of activity Sept 2012

Total mobile fleet is 11,698 vessels, as listed below



Plus 7971 fixed platforms

Offshore Orderbook % fleet Sept 2012

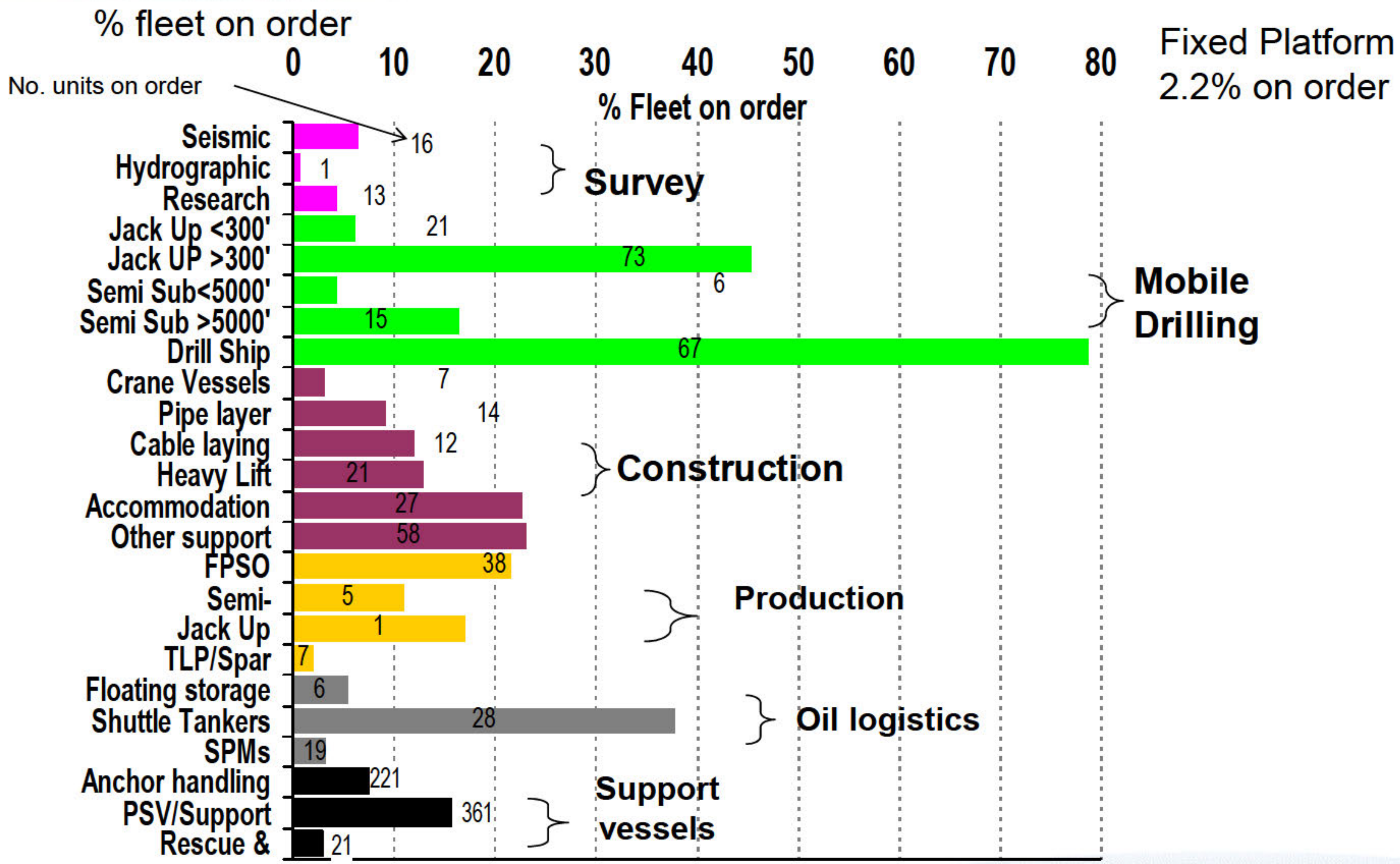
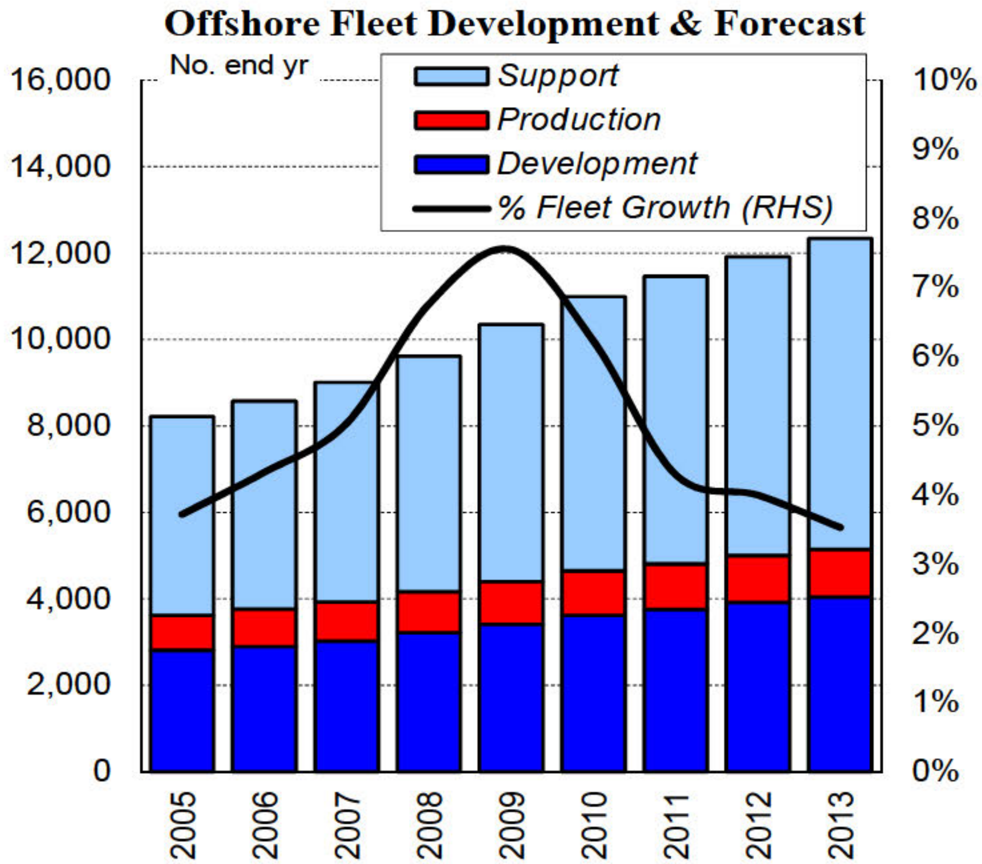


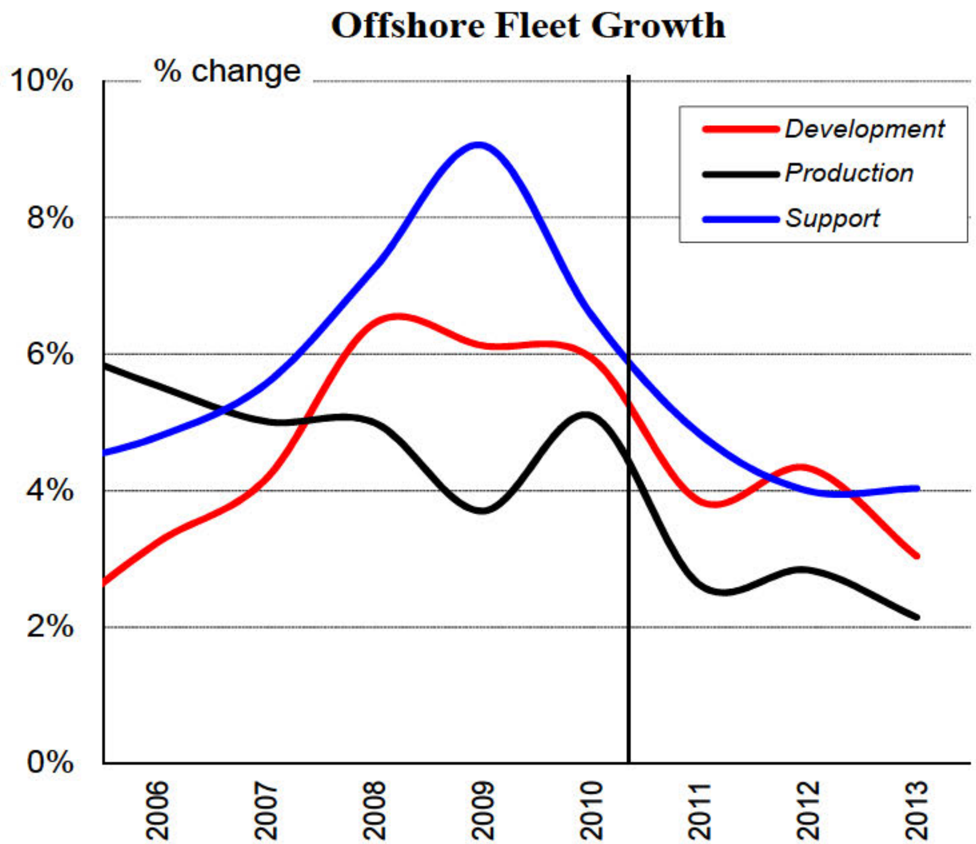
Figure 8: Offshore orderbook by type, % fleet on order Sep 2012 CLARKSON RESEARCH SERVICES LTD

Builder Country			Development					Production		Support						Total of Mobile Offshore	
	Survey	Mobile Offs. Drilling	Construction Vessel/Barge	Lift Boat/ Installation	Accommo-dation	MSV/DSV/ ROV Support	Dredgers	Mobile Offs. Production	Logistics	AHTS >8,000 bhp	[redacted]	PSV/Supply >3,000 dwt	PSV/Supply <3,000 dwt	Resucue & Salvage	Utility Support	Total all Types	% of Total
China P.R.	1	41	23	12	8	16	2	7	2	16	87	77	21	7	21	341	29%
Brazil		29	1			1		11	7	4	2	30	20			105	9%
South Korea		50	6	1				16	22	3		6				104	9%
Singapore	2	47	6	1	3	3		8	3	15	4	2		1	2	97	8%
India	4	5	5			8				14	15	15	14			80	7%
Norw ay	3		2			16				11		36	1	2		71	6%
United States	3	2		1	2	1		1	1	1		43	9		2	66	6%
Malaysia		1			4	5	2	2		2	6	12	7		8	49	4%
U.A.E.		10		3				1	3		8		5	3	17	50	4%
Indonesia		2	8			2				6	2	6	2		1	29	2%
Total Top 10	**13**	**187**	**51**	**18**	**17**	**52**	**4**	**46**	**38**	**72**	**124**	**227**	**79**	**13**	**51**	**992**	84%
Netherlands	1		3				1	1	9		1				2	18	2%
Japan	2									1	4	12				20	2%
Spain	2		1			1	1				2	4	2	4		17	1%
Russia	5	1	3									3		2	1	15	1%
Vietnam		2	1							1	2	4		1		11	1%
Germany	3		2	2	2		1									10	1%
Hong Kong		2									5		2			9	1%
Poland				1								7				8	1%
Finland								3				2		1	2	8	1%
Italy									2	1	1	4				8	1%
Total 11-20	**13**	**5**	**10**	**3**		**1**	**3**	**4**	**11**	**3**	**15**	**36**	**4**	**8**	**5**	**124**	11%
Others (16)	4	3	10		7	5	2	1	4	3	4	15			2	60	5%
Global Total	**30**	**195**	**71**	**21**	**27**	**58**	**9**	**51**	**53**	**78**	**143**	**278**	**83**	**21**	**58**	**1,176**	100%

Owner Country	Offshore Orderbooks: Numbers at 1st September 2012															Total of Mobile Offshore		
	Development							Production		Support								
	Survey	Mobile Offs. Drilling	Construction Vessel/Barge	Lift Boat/ Installation	Accommo-dation	MSV/DSV/ ROV Support	Dredgers	Mobile Offs. Production	Logistics	AHTS >8,000 bhp	[redacted]	PSV/Supply >3,000 dwt	PSV/Supply <3,000 dwt	Resucue & Salvage	Utility Support	Total all Types	% of Total	Fixed Structures*
Norw ay	5	40	3	2	4	24		6	8	18	4	55	3	3	6	181	15%	2
United States	5	44	1	1	2	1		8	4	3	3	74	9		3	158	13%	23
Singapore	1	17	5	1	7	5		1		16	55	18	5			131	11%	
Brazil		29	2					13	8			28	18			98	8%	2
France						11	1	1	2	2	17	14	17		32	97	8%	16
India	1	9	1			5			3	6	13	12	12			62	5%	9
Malaysia		3	6		1	5	2	4		5	12	12	1		6	57	5%	7
China P.R.	1	8	6	5	2	1	3		2	2	8	3				41	3%	10
Netherlands	4		10	3		3		4	1		7			6	2	40	3%	1
U.A.E.		7	5		1					1	13	1	7	1	3	39	3%	11
Total Top 10	**17**	**157**	**39**	**12**	**17**	**55**	**6**	**37**	**28**	**53**	**132**	**217**	**72**	**10**	**52**	**904**	**77%**	**81**
Share of Total	*57%*	*81%*	*55%*	*57%*	*63%*	*95%*	*67%*	*73%*	*53%*	*68%*	*92%*	*78%*	*87%*	*48%*	*90%*			*46%*
Hong Kong				1	2					13	1	17				34	3%	
United Kingdom	1	6	2	3	1			2	1		2	4	2	1		25	2%	7
Russia	4	4	3						1			4		3		19	2%	4
Nigeria	1		4			1					4	4	1			15	1%	
Greece		4				2			5	3						14	1%	
Italy			1					2	3	4	1	3				14	1%	
Denmark		7								2				1		10	1%	1
Japan		1						5	1	1						8	1%	
Germany	2			1	2		1	1				1				8	1%	
Canada								2	4	1						7	1%	2
Total 11-20	**8**	**22**	**10**	**5**	**5**	**3**	**1**	**12**	**15**	**24**	**8**	**33**	**3**	**5**		**154**	**13%**	**14**
Share of Total	*27%*	*11%*	*14%*	*24%*	*19%*	*5%*	*11%*	*24%*	*28%*	*31%*	*6%*	*12%*	*4%*	*24%*				*8%*
Australia	1			1				1						1	2	6	1%	1
Qatar		3							1						2	6	1%	
South Korea			1					1				3				5	0%	1
Cyprus		1			2							2				5	0%	
Vietnam		2							2					1		5	0%	7
Mexico		2	1		1											4	0%	9
Saudi Arabia		2											2			4	0%	40
Algeria														4		4	0%	
Others (18)	**5**	**16**	**22**	**4**	**5**		**2**	**2**	**10**	**1**	**3**	**28**	**8**	**6**	**6**	**118**	**10%**	**83**
GLOBAL TOTAL	**30**	**195**	**71**	**21**	**27**	**58**	**9**	**51**	**53**	**78**	**143**	**278**	**83**	**21**	**58**	**1,176**	**100%**	**178**

Fleet Growth – easing but still market risk





6. Conclusions

- Despite price and environment concerns, most forecasts continue to show energy demand growth. Forecasts average 1.0% for oil and 1.8% for gas.
- Offshore meets 21% of global energy needs and we expect this to increase in a high price environment.
- We forecast offshore oil production to grow to 30m bpd and offshore gas production to grow to 150 mmcfd. There are underlying trends towards deep water and gas.
- Brazil dominates the development charts. East Africa and Arctic and regions to watch for.
- Rates in the MDU and Construction sector have improved but in AHTS and PSV the market has remained more sluggish. Still some newbuild supply pressures and markets closely balanced.
- Medium and long term requirement still strong but some market concerns and financing tough.

Disclaimer

The information supplied herewith is believed to be correct but the accuracy thereof is not guaranteed and the Company and its employees cannot accept liability for loss suffered in consequence of reliance on the information provided.

Provision of this data does not obviate the need to make further appropriate enquiries and inspections. Forecasts are frequently wrong and the information on which they are based is not always accurate, so they are not a reliable basis for business decisions. Always consult as many sources as possible and check the validity of each to the extent the decision justifies.

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Standard Club Offshore Forum 2012

London
3 October 2012

The Standard

Contracts

Fabien Lerede
Syndicate Claims Director

London
3 October 2012

The Standard

Agenda

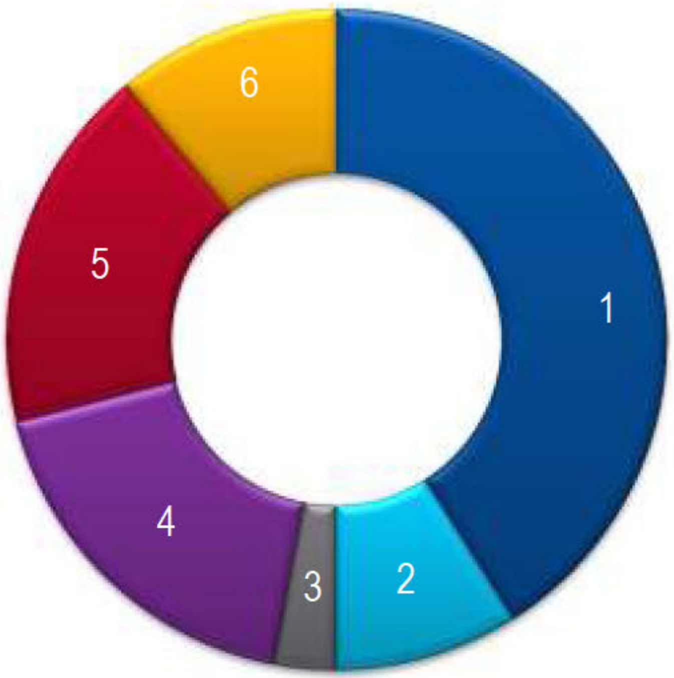
– standard offshore overview
– current offshore contracting trends
– legal development

Charles Taylor

Offshore ship types entered

The Standard

Owned tonnage



1	FPSO	41%
2	Supply / support	9%
3	Accommodation	3%
4	Heavy lift / installation	18%
5	FSO	18%
6	Drilling	11%

Charles Taylor

Construction / Installation offshore number of claims

The Standard

2006 - 2011

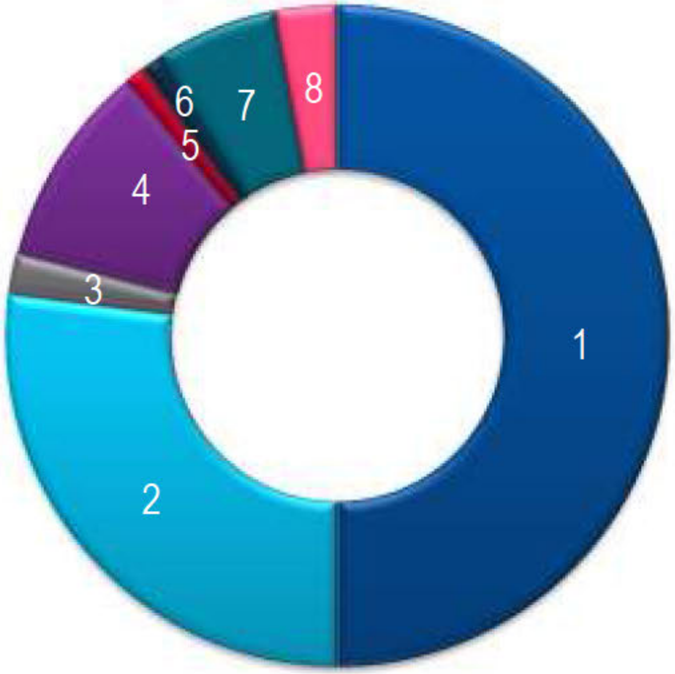
1	Personal Injury	74%
2	Pollution	2%
3	Other	4%
4	Wreck	1%
5	Cargo	4%
6	Collision	2%
7	FFO	8%
8	Fines	5%

Charles Taylor

Installation offshore value of claims

The Standard

2006 - 2011



1	Personal Injury	**50%**
2	Pollution	**27%**
3	Other	**2%**
4	Wreck	**10%**
5	Cargo	**1%**
6	Collision	**1%**
7	FFO	**6%**
8	Fines	**3%**

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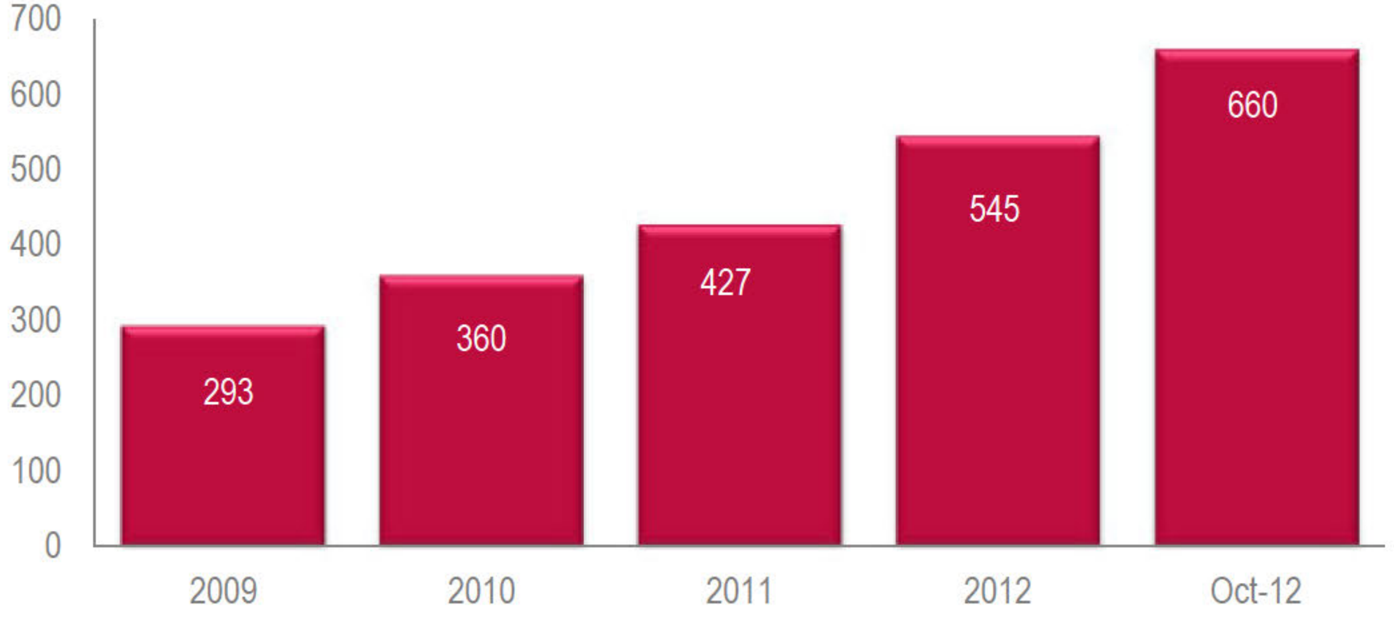
Contracts reviewed

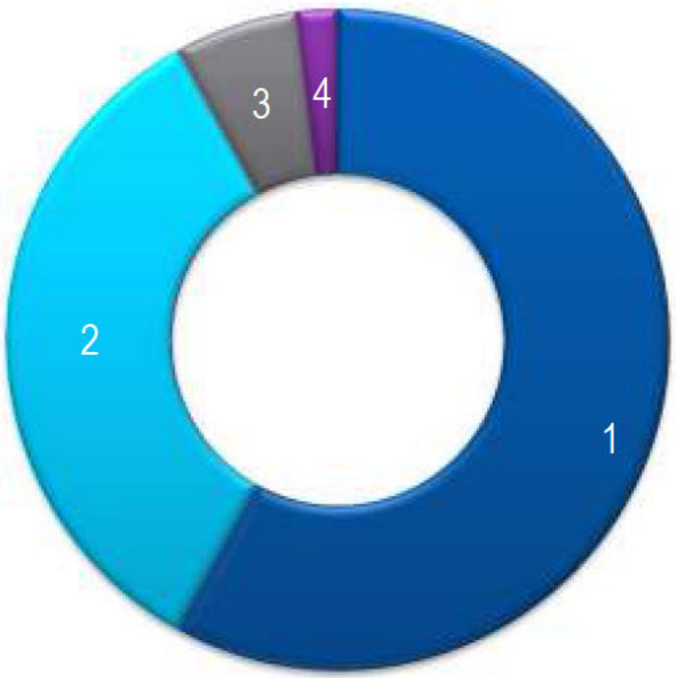
The Standard



Offshore contract review

The Standard

By business type



1	Supply & support	58%
2	Construction & installation	34%
3	Production	6%
4	Drill	2%

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Contract review

- when do we do review
- why do we review:
  1. to establish:
     - whether risks are capable of being pooled or not
     - if there are P&I non pool exposures are they covered under members terms of entry
     - what risks are excluded from cover
  2. to achieve certainty

Construction contracts

The Standard

- no standard industry forms
- what we are looking for
  - knock for knock & wide groups ✓
  - exposure for contract work or failure to perform ✗
  - waiver of right to limit liability ✗

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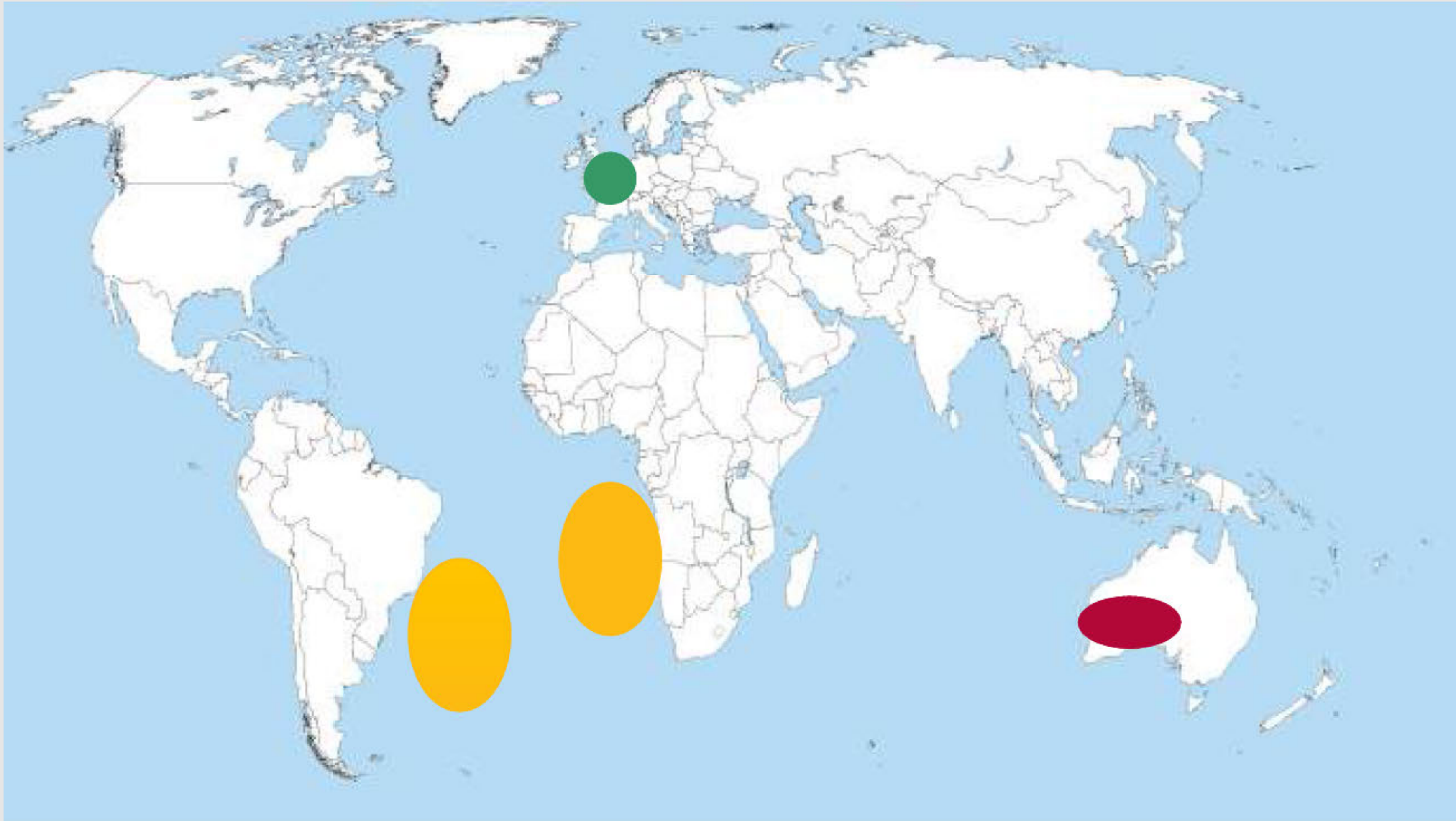
Contract review trends (1)

The Standard



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Contract review trends (2)

The Standard

Oil company

Construction company

Installation contractor

Transportation company

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How have contracts changed?

- "skin in the game"
  - no obvious trend in pollution
  - ross negligence / wilful misconduct not unusual in contracts
  - exceptions have been limited to a defined figure
  - limitation of ship generally preserved but where waived up to a limit

Legal developments

- amendment to the 1996 Protocol
- IMHH 2012 - LOGIC
- pollution – no development

Standard Club Offshore Forum 2012

London
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Specialist Operations and Contract Works – a P&I Perspective

John Croucher
Offshore Underwriter

3 October 2012

The Standard

Agenda – Club cover and Specialist Operations

– definition of specialist operations
– history of the exclusion
– extent of contract work exclusion and access to CAR cover

What is a specialist operation?

The Standard

Rule 5.11 – Non Exhaustive Definition

"including but not limited to dredging, blasting, pile driving, well stimulation, cable or pipelaying, construction, installation or maintenance work…."

Charles Taylor

Why is this relevant

- the ship is no longer engaged in the storage, carriage or transfer of cargo but a wider scope of work
- we will be relevant to most offshore contractor whether they are contracting in such services or performing them themselves

History of the exclusion

The Standard

- Originally limited to:
  - Physical loss or damage and
  - Fitness for purpose / failure to perform
- Therefore third party liabilities arising out of such operations was a poolable risk
- 1991 Chicago Pile Driving incident changed this position:
  - pile-driving ship punched through river penetrating the underground transport system
  - excess of US$195m claims asserted in admiralty
  - led to introduction of current specialist operations exclusion

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The club's approach

The Standard

- **three tier exclusion** in respect of liabilities arising out of:
  - **third party losses arising as a result**
    - non-poolable cover available
  - **failure to perform**
    - not covered as primarily viewed as operational expense
  - **loss of damage to contract work**
    - not covered – CAR market appropriate home for this risk

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The club’s approach

The Standard

- exclusion was drafted it was against a background of concern regarding dredging and pile driving claims
- assumption was that contractors would have access to CAR cover in their own right and that adequate insurance would therefore be available
- Is this assumption correct?

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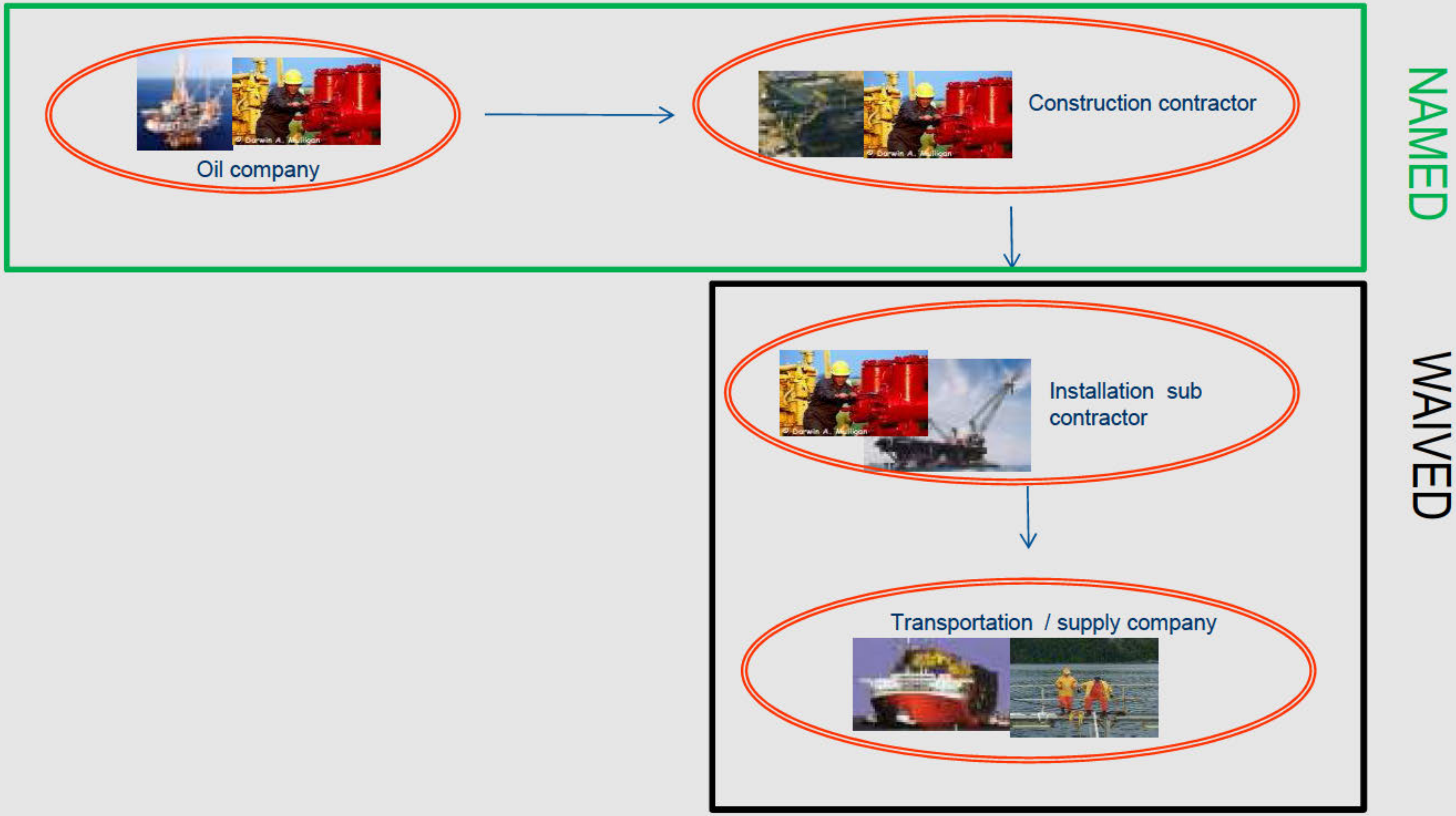
CAR cover

The Standard



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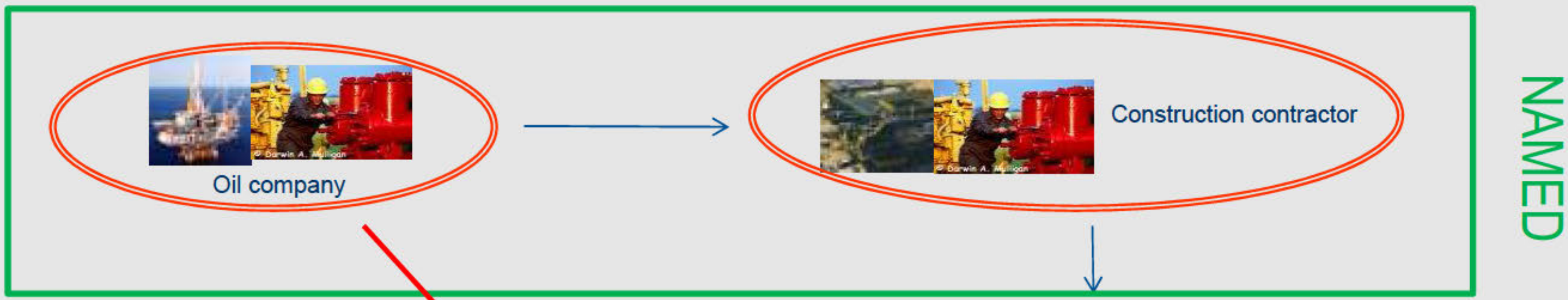
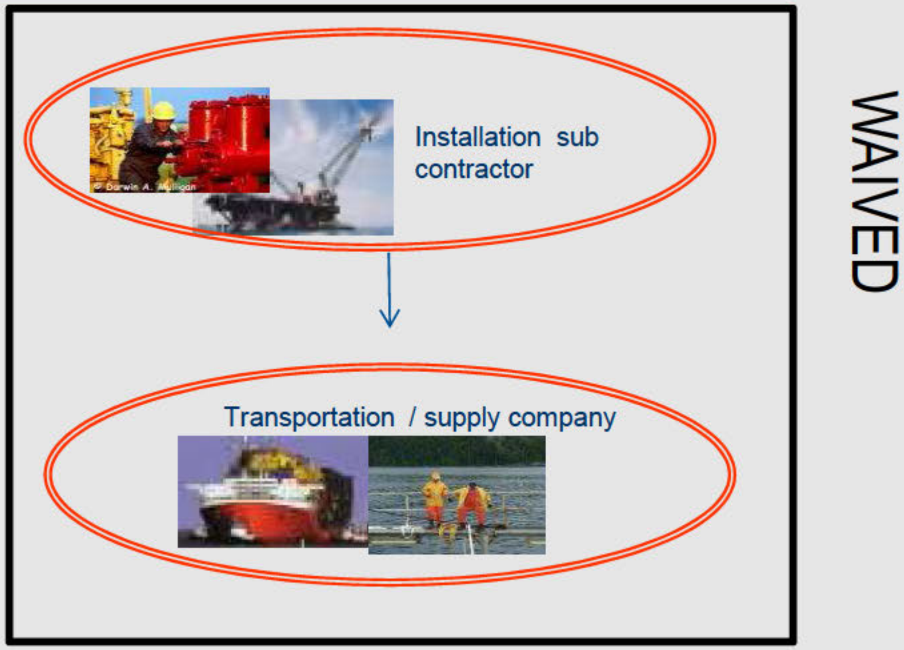
CAR cover

The Standard





How have Liabilities Been Allocated?

Who can Claim from CAR underwriters/

Restrictions on cover?

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Contract work exclusion

The Standard

Rule 5.11 (3) – Non Exhaustive Definition

“including but not limited to materials, components, parts, machinery, fixtures, equipment and any other property which is or destined to become part of the completed project”

Charles Taylor

Contract work exclusion

The Standard

- Intended to dovetail with CAR cover but P&I exclusion is absolute, so what if
  - (a) Access to CAR cover is limited
  - (b) No CAR cover is in place – i.e inspection, maintenance and repair
  - (c) Company / client self insure – credit risk?

Charles Taylor

Summary

– the specialist operations and contract work exclusions are widely drafted
– small variances in a particular contract, scope of work or position in contracting chain can be significant
– other insurances may be available however your balance sheet may be at risk if access to this cover is limited

Standard Club Offshore Forum 2012

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03 October 2012

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Risk Consulting

The Offshore Construction Project Insurance Policy

Some thoughts – mainly from a Contractor's viewpoint

Presented by Paul Riches

The Standard Offshore Forum 2012

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The Concept - Main Elements of the Policy

‘All Risks’ loss/damage coverage for contract works and indemnity for certain related expenditures (S&L, GA, ROW, etc.) under Section I, plus indemnity for certain liabilities under Section II.

Coverage period able to attach at earliest point at which property or liability exposures relating to the project arise and continuing until hydrocarbon production, with limited maintenance coverage. Thus coverage for all phases of the development – both onshore and offshore – wherever geographically located and including transits.

Coverage provided to the community of interests in the project’s development. Thus coverage for the oil company consortium developing the project, any project manager, and Contractors and sub-Contractors engaged in the project. Waivers of subrogation rights available to all insured parties.

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Topics

- The Contractor as an insured party.
- Access to the policy.
- Due Diligence obligations.
- Quality Assurance/Quality Control systems (QA/QC) obligations.
- Liability coverage for the Contractor.
- ‘Interface’ between Offshore Construction Project Insurance Policy and Contractor procured insurances.

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Offshore Construction Project Insurance Policy – Where are Underwriters with their Revision?

- WELCAR policy form issued in 2001 – ongoing widespread usage, limited amendments available.
- Joint Rig Committee (JRC) started revision process during 2009.
- Draft of revised wording issued 30th Sept 2012 by JRC for consultation period of 23 working days.
- Oil Companies, Contractors, Brokers & Consultants generally critical.
- After detailed feedback to the JRC, sub-committee reconvened.
- Further (final) draft of revised wording expected November 2012.
- Consultation period (concluded before year end?).

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WELCAR 2001 Revision - Underwriters' stated aims

1. To update the London Energy Market's Offshore Construction Project Insurance Wording by reflecting the experience of ten years underwriting on the basis of WELCAR 2001, changes in the Energy market's approach to such risks and recent revisions of market clauses.
2. To improve the quality of the contract wording itself by making it clearer and more consistent, using more contemporary language.

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Contractor as an Assured etc. (WELCAR 2001)

Contractor is an "*Other Assureds*" provided an insured party has entered into a written contract with Contractor directly in connection with Project.

However, to benefit 1) from insured status, and 2) from waiver of subrogation, Contractor must perform operations in accordance with QA/QC system complying with QA/QC provisions contractual imposed by "*Principal Assureds*".

What if Contractors in effect received a waiver of subrogation in contract with "*Principal Assureds*"? Insurers have no subrogation rights?

Rights under policy can only be exercised through the "*Principal Assureds*".

The interest of an insured Contractor is covered throughout the entire policy period unless restricted by contract.

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Contractor as an Assured etc. (WELCAR revision 2011 draft) i

Contractor is an "*Other Insureds*" provided an insured party has entered into a written contract with the Contractor directly in connection with Project and which expressly confers the benefit of the insurance (wholly or partly).

Under "*Due Diligence*" clause an insured Contractor and their "*project management*" (**an undefined term**) have a duty to exercise due care and diligence in the conduct of project related operations and in utilisation of safety practices & provisions considered prudent. Such duty includes:

i) Performance of operations according to QA/QC system required by "*Principal Insureds*".
ii) Selection and employment of sub-Contractors.
iii) Compliance with recommendations etc. of "*any surveyor*".
iv) In relation to precautions reasonably required to prevent loss, etc.

A breach of the Due Diligence provisions by a Contractor means no cover for loss etc. attributed to the breach and no subrogation waiver.

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Contractor as an Assured etc. (WELCAR revision 2011 draft) ii

Waiver of subrogation subject to policy terms, conditions & limitations.

If Insurers unable to pursue a subrogation claim against a Contractor in 'default' of a due diligence obligation because of a provision in the "*Principal Insured*" / "*Other Insured*" contract, then any related claim of the "*Principal Insured*" is subject to doubling of deductible.

Rights under policy can only be exercised through a "*Principal Insured*".

An insured Contractor is covered "*to the extent of their respective rights and interests in the project*" (never more than their contract allows).

Any act or failure to act by a "*Principal Insured*" that would prevent them making a claim also prevents an insured Contractor from making a claim.

Any agreement between insurers and "*Principal Insured*" relating to the insurance is binding on all "*Other Insureds*" (insurers under no obligation to notify "*Other Insureds*").

Contractor as an Assured etc. (WELCAR revision 2012 draft)

A further draft is imminent.

Changes may include:

Contractor is an "*Other Insureds*" provided an insured party has entered enters into a written contract with the Contractor directly in connection with Project and which expressly confers the benefit of the insurance (wholly or partly).

In the examples given in the non-exhaustive list of duties of an insured Contractor and their "*project management*" in the "*Due Diligence*" clause the reference to compliance with recommendations etc. of "*any surveyor*" may be changed to the "*Marine Warranty Surveyor*".

There will be other changes.

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Contractor as an Assured etc. (WELCAR revision 2012 draft)

Some positive changes to the 2011 draft anticipated including:

- ‘Re-affirmation’ that it is an ‘All Risks’ policy form.
- A more sensible Scope of Work clause.
- An appropriate provision regarding fraudulent claims.

But unlikely that Contractors and Oil Companies will regard the anticipated changes to the ‘unfriendly’ 2011 draft as adequate.

Liability coverage for the Contractor (WELCAR 2001) i

The Oil Company/Contractor contract usually requires the Contractor to have in place various liability insurances including:

- Primary Comprehensive General Liability.
- Employer's Liability/Workmen's Compensation Act Liability.
- Automobile Liability.
- Protection & Indemnity.
- Charterer's Liability.
- Aviation Liability.

The Contractor may also be required to have loss/damage cover for owned watercraft and equipment.

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Liability coverage for the Contractor (WELCAR 2001) ii

WELCAR (Section II) does not provide coverage for liability, inter alia,:

- caused by any automobile or aircraft
- arising out of use/operation of watercraft (owned, chartered or operated)
- to employees (or their relations)
- for loss/damage to well being drilled and redrill (unless unconnected)
- for costs of well control/fighting related fire/well redrilling
- arising from professional negligence
- for costs of repair/replacement etc. of product failing to perform
- assumed under a warranty for fitness/quality of product

At best Section II will usually offer a Contractor limited general liability coverage in excess of that required by the Company/Contractor contract.

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Liability coverage for the Contractor (WELCAR 2011 draft)

While the proposed changes to Section II were described by the JRC as minor, some dispute this view.

Changes include the removal of the Cross Liability Clause and limiting coverage by defining "*Express Contractual Liability*" as only tort liability.

It appears unlikely that the 2012 revision will offer the buyer any improvements in the liability cover (compared with the 2011 draft).

‘Interface’ between Offshore Construction Project Insurance Policy and Contractor procured insurances

The Construction policy and P&I/Special Ops do not ‘dovetail’ - but operate in the same environment.

If the contract indemnities & liability provisions constructed sensibly - and extend throughout the chain – any contractor should have protection i.r.o. loss/damage to contract works under the Construction Insurance (but note earlier warnings!).

If Contractor has benefit of Section II on excess basis the limit is potentially shared with all other insured parties.

‘Interface’ between Offshore Construction Project Insurance Policy and Contractor procured insurances

Coverages required by Marine Contractor’s will include:

- Employer’s Liability /WCA/Crew cover
- Primary (and probably excess) liability
- P&I/Specialist Operations
- Owned or leased property (+ ROW etc.)
- Pollution from craft/equipment
- Coverages i.r.o. well related activities?

What is the position regarding Oil Company’s ‘existing property’?

What if contract works includes an FPSO?

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Standard Offshore Contracts – The Oil Company View

Paul King

Director

INDECS Consulting Limited

Why should an Oil Company be worried?

- Company A ties into Company B's existing pipeline
- In return for a cap on liability, Company B holds Company A (and its Contractors of All Tiers) liable for damage to existing pipeline and consequential losses
- Company A purchases (construction) liability insurance to respond to liabilities under Tie-in Agreement.
- Company A enters into Marine Construction contract with Contractor C, indemnifies him/subcontractors from loss or damage to permanent facilities

Are all parties covered?

- Standard WELCAR liability section includes following exclusion:

  "arising out of the use or operation of watercraft, whether owned, time chartered, bareboat chartered or operated by any Assured,

  or for which any Assured may be responsible other than

  as declared hereto"

  – Ensure list is correct
- Has marine contractor purchased specialist operations cover from its P&I Club?
- Why/how is the P&I Club liable if its member enjoys an indemnity under the Marine Construction contract?

Alternative Insurance cover

- WELCAR - some versions remove exclusion,

  add following cover:

  PROTECTION AND INDEMNITY *….(but excluding Protection and Indemnity in respect of contractors' vessels or craft and to apply excess of amounts recoverable under the Construction All Risks Policy or any Protection and Indemnity Club entry or other Protection and Indemnity Coverage in respect of property owned by the Principal Assured).*

This does not act as excess to P&I in respect of property owned by other assured – marine contractor

Cover all - Contingent Liabilities

"This Policy, subject to its terms and conditions,

protects Principal Assured(s) against claims made against them for Bodily Injury or Property Damage

arising out of accidents or Occurrences caused by negligent acts or omissions of contractors and Principal Assureds engaged in this Project

to the extent that such Principal Assured(s) are unable to recover under the contractors' insurance(s), if any".

Be aware of P&I Condition

- It is a condition of this Insurance that Principal Assured(s) endeavour to ensure that vessel owners maintain Hull and Machinery and Protection and Indemnity insurance with Principal Assured(s) being named as Assured(s) thereunder.

  – How achievable is this?
  – Something P&I Clubs typically resist

Recommendations

- All contracts should dovetail, from Oil Company to main Contractor to Subcontractors
- Construction insurers to understand and commit to contractual position

- Know your position - talk to your insurers, brokers, Club
- Know your independent adviser

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Figure 2.2 Saipem 10000.

saipem

Offshore construction risks: some thoughts … some doubts …

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Indemnity Principles

- Useful and welcome but not the panacea….
  - Very often application limited to a mutual hold harmless between the parties (which the Works escape from),
  - The risks related to the well (loss of control, collapse, pollution) normally remain on Principal side,
  - Other third party risks per applicable law.
- Delicate drafting…
  - Company vs. Company Group / Contractor vs. Contractor Group,
  - What exactly is indemnified?
  - Is gross negligence included? What is it? Who can be grossly negligent?
  - Definition of «consequential losses»,
  - Need for true indemnities and not just waivers…

Indemnity Principles

- Even in a so called balanced contract, Contractors' burden is still very heavy….

  - Own resources (personnel + assets),
  - Own consequential losses (loss of production, time, profit…),
  - Risks related to performance (mainly delay and make good),
  - Damage to the Works,
  - Damage to 3rd party existing properties and consequential losses thereof,
  - Other liabilities as per applicable law (removal of wreck, fines, punitive damage under some jurisdictions…),
  - Etc.

Considering Contractors' balance sheet, some of these risks (Works and Liabilities) are out of proportion ➔ Contractors <u>need</u> insurance.

Offshsore Construction «All Risks» policy

❑ The trend over the past 10 to 15 years….

- From the "broad form" to the Welcar 2001 or … a first step versus a "negligence excluded" cover?

  - ✓ Faulty weld
  - ✓ Defective part exclusion
  - ✓ QA/QC warranty,
  - ✓ Deductible inflation,
  - ✓ Sub-limits for "collateral" expenses,

- From the Welcar 2001 to the Welcar 2013 (?) or …. a second step versus an even more "confidential and restricted" cover?

  - ✓ Named perils,
  - ✓ Enlarged due diligence,
  - ✓ Access to be expressly granted under written contract,
  - ✓ Strictly limited to construction
  - ✓ And further,

Offshsore Construction «All Risks» policy

- Why such a trend?

It is said that the very soft market together with an escalation in the number and nature of losses presented to the market in the late 90's leaded to a shortage of the capacity and the need for rebuilding the market on a different basis …

… but the market shows pretty resilient for a while now and it is hard to understand the reason for reducing again the cover when the construction trend (bigger and more complex projects) would rather call for enlarged warranties …

… is that the result of a need for containing the premiums?

Offshsore Construction «All Risks» policy

- Who makes the demand?

  … or shall we say, who places Welcar? Offshore construction might be the only business where the parties buying the insurance are actually not – or at least not at the first stage – the parties needing the insurance … indeed Principals place Welcar, not Contractors. Contractors are just liable for the Works!

- Is there an alternative to insurance?

  ... or, in other words, who are strong enough to substitute to the insurers if not the Principals themselves?

  Could not someone (maybe the Devil's advocate) reasonably wonder whether or not these "particulars" could have (or have had) an influence on to the insurance market trend?

Offshsore Construction «All Risks» policy

- The danger

I have no answer to the questions previously raised but I see little consistency between the insurance market trend and the way the offshore construction industry has developed over the past decade:

- ✓ Projects are in the average massively bigger while the insurance capacity has been remaining pretty stable,
- ✓ Projects are technically more challenging while the insurance did not enlarge at all its field of application,
- ✓ Projects are comparatively more costly (escalation in rates due to a number of factors) while the insurance market has been remaining stable.

Is the insurance market missing an opportunity?

Is there a danger that the Welcar ends up not being suitable anymore?

CAR vs P&I: the grey areas

- Grey areas (potentially) subsist between CAR and P&I

  - Removal of Wreck,
  - Damage to existing facilities where Works are to be tied-in (which could be extended to any modification works to such existing facilities),
  - Definition of the other «project packages» when project is split in several of such, i.e subsea, fab, T&I
  - Dismantling and decommissioning projects ➔ is the Welcar suitable?
  - FPSO and other floating facilities ➔ again, is the Welcar suitable (specially with regards to section II)?
  - Start-up and commissioning… and first operations ➔ more and more often part of SOW

➔ Potential unknown exposures for Contractors.

Conclusion

Never forget that Contractors and Subcontractors of any tiers can not develop any sustainable business in the oil and gas field (especially offshore) without the support of their Principals and that one of the Insurance community.

Give them the possibility to transfer part of their financial risks through reliable and realistic mechanisms.

Do not let CAR become merely a pre-financing tool to the exclusive benefit of the Principal. This is not a viable route.

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INDEMNITIES – A NECESSARY EVIL?

OCTOBER 2012

Guy Hardaker
Partner
Holman Fenwick Willan LLP

TOPICS

1. What is an Indemnity?
2. Indemnity regime offshore
3. Construction of Indemnities
4. Disputed Indemnities
5. Breakdown in Indemnity regime
6. Observations

WHAT IS AN IDEMNITY?

"A contract between 2 parties in which one party agrees to be liable for loss or damage sustained by the other party and/or a third party from a specified event or loss or damage which results from a claim or demand"

- The purpose is to apportion or allocate risk between parties to a contract
- The party indemnified should recover dollar for dollar compensation for its loss
- At common law the party indemnified can only recover when it is not at fault
- No obligation to mitigate loss
- Limitation period runs from date on which loss is suffered

WHAT IS AN IDEMNITY? (Cont'd)

- Sample indemnity clause:

  "The CONTRACTOR agrees to protect, defend, indemnify, and hold harmless COMPANY, its officers, directors and employees, and any of the COMPANY's subcontractors, employees and invitees (other than those subcontractors, employees and invitees hired by CONTRACTOR), from and against all claims, demands, cause of action of every kind and character without limit and without regard to the cause or causes thereof or the negligence or fault (active or passive) of any person or entity (including the sole, joint or concurrent negligence, gross negligence, or fault of COMPANY on any theory of strict liability and any defect of premises, or the unseaworthiness of any vessel) made or brought by or on behalf of CONTRACTOR's employees, invitees, subcontractors (including employees and invitees of such subcontractors and invitees) or any of their spouses, heirs, survivors, legal representatives, successors and assigns, on account of damage to property, bodily injury, illness or death. Further, CONTRACTOR covenants and agrees to support his indemnity provision by maintaining appropriate liability insurance."

INDEMNITY REGIME OFFSHORE

hfw

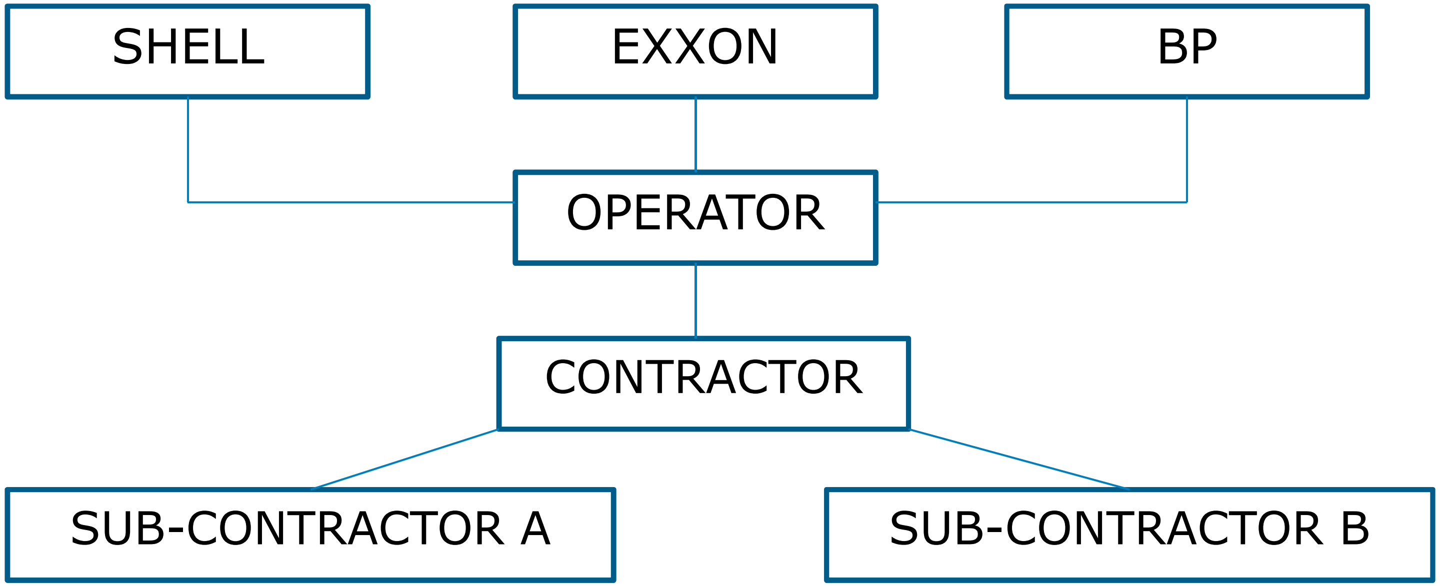
- Risk allocation by combination of clauses
  - exclusion
  - limitation of liability
  - indemnity
- Needs a working chain of contractual indemnities between all project participants
- Operator has indemnity from other upstream participants in JOA save for
  - gross negligence and wilful misconduct
  - unauthorised, negligent or unlawful acts

INDEMNITY REGIME OFFSHORE (Cont'd)

- Liability of contracts allocated on fault basis or 'knock for knock' basis
  - injury to own personnel and damage to own property allocated on knock for knock basis
  - loss suffered by third parties due to operator's or contractor's conduct is on fault basis
  - party's consequential loss allocated on knock for knock basis
  - party's liability underpinned by contractual indemnity
- Company Group and Contractor Group definition - excludes entities captured in other group
- Purpose of regime is to avoid overlapping layers of insurance
- Outcome is to keep liability within the "Group" e.g. where Contractor held liable for damage to property of member of Company Group, Company indemnifies Contractor.

INDEMNITY REGIME OFFSHORE (Cont'd)

- Example of indemnities working in practice



1. Sub-Contractor B sues Operator for damage to equipment
2. Sub-Contractor B recovers against Operator in negligence
3. Operator claims against Contractor since Sub-Contractor B in Contractor Group
4. Contractor claims against Sub-Contractor B since order knock for knock Contractor indemnified for claim by Operator
5. Sub-Contractor B bears own loss

CONSTRUCTION OF INDEMNITIES

- Width or scope
- Circumstances
- Types of event
- Contractor Group/Company Group/Third Parties
- Fines and penalties
- Negligence/Gross Negligence/Wilful Misconduct
- Construed strictly against indemnifying party

DISPUTED INDEMNITIES

- Buncefield
  - Total held to be Operator (not HOSL) and vicariously liable for negligence of HOSL employee
  - Total entitled to be indemnified by HOSL but only

    "Without prejudice to any claims which HOSL but may have against [Total] in respect of any negligence or wilful misconduct".
  - Total negligent so indemnity claim failed
  - Chevron as 40% owner of HOSL not obliged to indemnify Total as operator against consequences of own negligence

DISPUTED INDEMNITIES (Cont'd)

- Diamond Offshore v Gulf Offshore
  - Collison between rig and tug
  - Texaco chartered a rig from Diamond Offshore
  - Texaco chartered tug from Gulf
  - Indemnity by Contractor (Diamond) in favour of Company (Texaco) for damage to rig
  - Gulf claimed Diamond could not sue for damage to rig on basis Gulf also had protection of indemnity in favour of Texaco (e.g. as other contractor)
  - Gulf held not to have protection of indemnity as its contract with Texaco did not contain similar indemnities so no "knock for knock" arose

DISPUTED INDEMNITIES (Cont'd)

- Farstad v Enviroco
  - Farstad owned supply vessel chartered to ASCO
  - ASCO engaged Enviroco to clean out vessel tanks
  - Fire broke out on vessel due to negligence of Enviroco employee
  - Farstad sued Enviroco in tort; Enviroco joined ASCO for contribution
  - Charterparty contained indemnity clause in favour of ASCO "irrespective of the cause of loss or damage including where such loss or damage caused or contributed to by negligence of charterer"
  - ASCO not liable to Farstad for own negligence so Enviroco not entitled to contribution from ASCO

DISPUTED INDEMNITIES (Cont'd)

- Macondo
  - Held BP obliged to indemnify Transocean for third party claims from subsea pollution even if resulting from gross negligence (not against public policy) or strict liability
  - BP not obliged to indemnify Transocean for punitive damages
  - BP not obliged to indemnify Transocean for civil fines/penalties under the Clean Water Act but must indemnify for penalties under the Oil Pollution Act (since this expressly allows indemnification by contract)

BREAKDOWN IN INDEMNITY REGIME

- Catastrophic loss
- Failure to recover
- Time impact of dispute
- Uncertainty
- Gap in contractual cover

OBSERVATIONS

- Catastrophic events cause stakeholder to re-appraise risk allocation
- Dependent on credit risk of counterparty
- Environmental laws impose penalties on polluter
  – usual strict liability
- If traditional service contract risk allocation remains then expect more litigation of indemnities

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