

Standard Bulletin: Offshore Special Edition

November 2013

Setting the standard
for service and security

The Standard



Robert Dorey, Offshore Director

+44 20 3320 8831
robert.dorey@ctplc.com

In this edition

- 2 Environmental liabilities constitute biggest financial risk for oil companies and contractors
- 4 Offshore drilling in the Arctic Ocean
- 6 On the horizon: US criminal sanctions versus offshore operations
- 8 Scope of coverage for additional assureds under Texas law
- 10 Singapore as a regional offshore marine hub
- 12 Overview of training implemented by Swire Pacific Offshore
- 14 FLNG operators
- 16 New EU Directive on the safety of offshore oil and gas operations
- 18 New Bimco Windtime charterparty for wind farm support vessels
- 21 Nairobi Wreck Removal Convention from an offshore perspective
- 22 Maritime Labour Convention 2006 in the offshore sector

Welcome to the eighth Offshore Special Edition of the Standard Bulletin, which coincides with another year of growth for the Club's offshore business and offshore team.

During the course of the last 12 months we have seen Sharmini Murugason relocated to Singapore to become the Regional Offshore Claims Director; Leanne O'Loughlin relocated to New York as a Claims Executive and Roger Johnson promoted to Syndicate Claims Director of the Atlantic syndicate. Meanwhile we are pleased to welcome into the Offshore syndicate Sarah Wallace and Claire Boddy, both qualified lawyers, as Claims Executives.

The Offshore Forum, in Paris on 5 November 2013, will consider the offshore industry's increased activity set against more onerous regulation and accountability. The key driver of regulatory change has been the Macondo well blow out in the Gulf of Mexico. Therefore, we begin our bulletin by tracking the fall-out of the Deepwater Horizon casualty.

The first article tackles one of the most startling consequences: the use of fines by governments to target oil companies. Fines are not new, but the level which they are now reaching presents significant challenges for oil companies and their contractors: Leigh Williams, of Clyde& Co, will plot these hazards. Secondly, significant oil pollution risks are at the forefront of planners' minds when reviewing oil prospects in the Arctic: Leanne O'Loughlin will identify what operators need to take into account. Thirdly, criminalisation of seafarers and shore personnel is an increasing risk in the US: Joe Walsh and Marc Greenberg, of Keesal Young and Logan, tackle this troubling development. Then, Ursula O'Donnell, Offshore Claims Director, looks at who has access to the contractors' insurance cover. This is an issue rarely addressed by courts and the Deepwater

Horizon litigation offers interesting lessons for all offshore industry participants.

In Singapore, Sharmini Murugason takes a look at the booming local offshore market. Ian Offland, the Fleet Operations Director at Swire Pacific Offshore, reviews their solution to one of the most important offshore challenges, the training and retention of quality crew.

Chris Brown of CT Energy leads us through some of the operational risks associated with the flourishing Floating Liquefied Natural Gas market, which we will look at in greater detail at the forum.

Finally we look at some of the legal changes coming over the horizon. The first, a direct consequence of the Deep Water Horizon, is the new EU Directive on safety of offshore oil and gas operations. The details of the new WINDTIME form which was recently adopted by BIMCO are reviewed. Another legislative change is the Nairobi Convention which will, if it comes in to force, increase the risk of removal of wreck claims. Finally, the Maritime Labour Convention poses challenges to all ship operators and these are explored from an offshore perspective by Rupert Banks, Offshore Claims Executive.

Thank you to the authors for their contributions. We value feedback from all who read this bulletin and we are always interested in hearing your suggestions for content of the bulletin and the offshore forum.

We look forward to welcoming you in Paris at our Offshore Forum on the 5 November 2013.

Exposure to environmental liabilities now the single biggest financial risk for oil companies and contractors



Leigh Williams, Partner, Clyde LLP

+44 207 876 6370
leigh.williams@clydeco.com

Macondo: oil companies hit with copycat liabilities

Nigeria, Brazil, Ecuador and China. What do they have in common?

In the last 18 months, they have each sought to impose liabilities on oil companies for pollution incidents that massively exceed, on a per barrel basis, the fines that have been or may be imposed upon BP by the US authorities for the Macondo/Deepwater Horizon spill.

Everyone has been focusing on Macondo/Deepwater Horizon because four million barrels of oil spilt into the Mexican Gulf. BP stands to be fined up to \$4,000 per barrel of oil under the US Clean Water Act. However, the recent Nigerian fine of \$11.5bn imposed on Shell for the Bonga FPSO incident amounts to \$250,000 per barrel of oil spilt. The claim that was, until recently, being advanced by the Brazilian public prosecutor against Chevron for the Frade spill amounts to a staggering \$4.5m per barrel of oil spilt. Transocean, the drilling rig owner, was also punished by being temporarily banned from operating at all in Brazilian waters.

- Since Macondo, producing states have been imposing massive and disproportionate liabilities on oil companies for oil spills.
- Fines have been dressed up as damages claims and vice versa.
- Now arguably the biggest single exposure for participants in the oil industry and could deter activity.

Implications

First, the received wisdom that environmental damage liability is manageable because there are very few jurisdictions in the world that permit the imposition of a fine (in the genuine sense) of more than \$100m no longer holds good.

Second, what is emerging is a lack of any clear distinction between fines and civil law damages. Fines are supposed to punish wrongdoing and are imposed by state authorities. Damages are generally meant to compensate individuals for damage to property and economic interests. The \$20bn civil damages claim brought against Chevron for the Frade spill was justified on the basis of the damage it supposedly caused. However, that appears to have been negligible, not least because the spill happened 370km from shore. It looks more like a fine than damages. But Chevron had already been fined about \$17m by the Brazilian authorities.

Third, it should not be assumed that these liabilities have no effect outside the jurisdictions that impose them. The Ecuadorian government has recently made significant progress in enforcing its \$19bn 'damages' claim against Chevron in the United States for pollution caused to the Amazon during the 1970s and 1980s. The 'damages' award was more than doubled by an Ecuadorian Court from its previous level of \$8.6bn because Chevron refused to apologise for the pollution.

Fourth, the prospect of having to deal with corporate-threatening liabilities could discourage certain contractors from continuing to participate in the industry at least in some parts of the world.

Conclusion

The US authorities' response to the Macondo blowout has triggered copycat behaviour by governmental bodies in oil-producing jurisdictions around the world. As a consequence, liability in respect of environmental damage is emerging as one of the biggest single exposures for participants in energy exploration and production, and their risk carriers.

We would remind the members that P&I cover under the club's Standard Offshore Rules can respond to fines imposed for accidental discharge or escape of pollution from the entered unit, but this is at the discretion of the club's board and is subject to a sublimit of \$50m.



Offshore drilling in the Arctic Ocean



Leanne O'Loughlin, Claims Executive

+1 646 753 9021
leanne.oloughlin@ctplc.com

Growing interest

While the debate around drilling in the Arctic Ocean has been ongoing since the 1970s, there has been a recent surge in interest as exploitation of the substantial natural oil and gas resources in the Arctic continental shelf is now being considered as a potentially viable option.

Proven offshore oil and gas fields have been found along Russia's vast Arctic shelf in the Barents, Pechora and Kara Seas. The Norwegian Arctic is viewed as a possible source to replace declining outputs from the mature fields in the North Sea. Oil and gas exploration licences have been issued by Greenland, Canada and Iceland, with more licences anticipated in the immediate future. Russia, Canada and Norway have been growing their icebreaker fleets and shore-based infrastructure to support activities in the emerging Arctic economy. They, along with the United States, Denmark, Finland and Sweden, have geographical claims to the Arctic continental shelf. In 2007, Russia even sailed a submarine to the North Pole, where it planted a titanium flag. The industry's interest in the Arctic Outer Continental Shelf is understandable in light of the significant resource potential it has to offer. Nearly 13% of the world's undiscovered oil reserves and 30% of its undiscovered gas reserves lie north of the Arctic Circle, according to a US Geological Survey. Those estimates don't even include so-called unconventional oil and gas deposits such as hydrocarbons found in shale rock or methane hydrates on the sea floor.

The environment

The difficulties posed by the remote and harsh Arctic environment create a very unique set of operating circumstances for even the most advanced operator. Icebergs and Arctic storms can shear apart offshore drilling units, large tankers and support vessels. As a result, human and environmental disasters are highly likely. The difficulties of remoteness cannot be underestimated. In Alaska, co-ordinating a response to an oil spill or capsized vessel could take days or weeks, whereas in the other 49 US states,

response times for a similar incident are measured in hours. The lack of preparedness was dramatically highlighted in Shell's 2012 Alaska Offshore Oil and Gas Exploration programme. After seven years of planning and an estimated \$5bn investment, the programme was abandoned following a series of technical, safety and procedural failures, culminating in the grounding of the Kulluk rig near Kodiak, Alaska.

The risks

Below, we highlight some of the unique additional risks involved in offshore drilling in the Arctic Ocean:

1. Remoteness and lack of adequate infrastructure

The areas around the Beaufort and Chukchi Seas lack even the most basic infrastructure such as roads, ports, airports, hospitals, and basic housing and shelter that would be necessary to support the people involved in a response to a pollution, blowout, sinking, grounding or human-error incident. The nearest permanent Coast Guard facility is more than 1,000 miles away in Kodiak, Alaska. The lack of response vessels in the area would significantly delay any emergency response. At present, the US operates just one functional ice-breaking vessel. Even when sourced and mobilised, the effect of the extreme environmental conditions on vessels and equipment thereon remains largely untested and unproven.



The difficulties posed by the remote and harsh Arctic environment create a very unique set of operating circumstances for even the most advanced operator. Icebergs and Arctic storms can shear apart offshore drilling units, large tankers and support vessels.

2. Weather

Extreme and unpredictable weather conditions prevail even during the summer months. Factors such as extreme cold, extended periods of darkness, hurricane-strength storms, sea ice and pervasive fog will hamper regular operations involved in exploratory drilling and sea transport to varying extents, and could create significant difficulties and delays to emergency responses.

3. Climate change

While melting sea ice is one of the factors that have piqued interest in the region, opening sea routes for extended periods and creating longer seasonal ice-free periods, it is also a reflection of an unstable environment that is rapidly transforming in response to climate change. The Arctic region is warming at around twice the rate of the rest of the globe. Further, the current rates of carbon dioxide emissions are drastically increasing the acidity of the Arctic Ocean, which is particularly susceptible to the effects of carbon dioxide due to cool water temperatures and low levels of salinity. So the already limited scientific knowledge we have in the region is constantly shifting, rendering planning for industrial activities unpredictable and uninformed.

4. Lack of scientific knowledge

The rare and fragile species that have survived and flourished in the harsh Arctic environment remain largely a mystery. The impact of a significant oil spill or blowout on these is unpredictable based on the limited studies and research into the ecosystem. A 2010 US ecological report concluded that major gaps exist in Arctic science and research that would be required to adequately prepare for drilling in this challenging environment.

5. No unified or coherent legislative structure

Despite the dangerous conditions, outside of domestic waters, the Arctic has no mandatory requirements for those operating in or passing through international waters in the region. There are no designated shipping lanes or requirements for ice-strengthened hulls to withstand the extreme environment, ice navigation training for ships' masters or even the production and carriage of updated navigation and ice charts. At present, domestic regulatory regimes are set by the eight individual Arctic states. The domestic regimes are complemented by numerous voluntary measures, most notably those provided by the Arctic Council, comprised of representatives of the Arctic states, indigenous peoples, and observer states

and organisations. Industry bodies have also recognised the need for specific Arctic best practice guidelines. The absence of a mandatorily applicable regime setting minimum standards for operating in Arctic waters, together with a predictable legal and limitation regime, creates another layer of risk for operators and their insurers.

Conclusion

The purpose of this article is not to take a view as to the industry's readiness to embark upon exploratory offshore drilling in the Arctic Ocean. There are undoubtedly significant energy and mineral resources out there, and with so many powerful border nations, competition to claim and profit from the area seems inevitable. However, there has been an acknowledgement by some of the major oil and gas operators, including Total, Statoil (and arguably Shell, in its decision to abandon its 2012 drilling campaign), that the decision to pursue Arctic exploitation will eventually be an economic one. The costs of exploration are only the tip of the iceberg, with massive investment in infrastructure required to deliver the oil and gas to the consumer markets. The insurance industry as a whole will look closely at the additional risks and liabilities involved in operations in these new frontiers. The private insurance sector has warned of a "unique and hard-to-manage risk" in responding to an oil spill in highly sensitive environments. P&I underwriters will continue to strive to support their member's operations in all frontiers; however, the difficulties posed by the unique Arctic environment will require a detailed and tailored risk analysis so that the member and club are adequately prepared for all eventualities.

On the horizon: US criminal sanctions vs. offshore operations



Joe Walsh, Keesal, Young & Logan. PC
Long Beach, California, USA
+1 562 436 2000
Joe.walsh@kyl.com



Marc Greenberg, Keesal, Young & Logan. PC
Long Beach, California, USA
+1 562 436 2000
Marc.greenberg@kyl.com

Offshore operations in the United States are governed by an overlapping web of international treaties and federal and state environmental laws and regulations.

Some rules apply when a Mobile Offshore Drilling Unit (MODU) is underway; others when the MODU is attached to the seabed. Discharges permitted by international treaties may not be allowed under U.S. laws, and vice-versa. Absent a carefully crafted and strictly implemented compliance program, a company operating or drilling offshore is at risk for costly civil and criminal sanctions – even for inadvertent record keeping violations.

What is Your Exposure?

When in transit, a MODU is subject to the same environmental requirements as vessels including the International Convention for the Prevention of Pollution from Ships (MARPOL), and in some cases the U.S.'s Act to Prevent Pollution from Ships (APPS). APPS adopts, but also criminalizes, violations of MARPOL.

Given the requirements imposed on MODUs as ships, the offshore oil industry should look closely at how the shipping industry fared under the U.S. government's Vessel Pollution Initiative which began in 1998 as a means to force MARPOL compliance. Since then, more than \$330 million in criminal fines and more than 26 years of prison confinement have been levied¹. Whistleblower laws resulted in employees turning against their employers to receive rewards of up to half of fines imposed against their employers. Criminal sentences against the corporate defendants typically involved the imposition of comprehensive and costly environmental compliance plans requiring years of outside independent audits and court-appointed monitors as a

condition of probation. In some instances, certificates of compliance were revoked and ships were banned from US ports because of MARPOL violations.

Could the offshore industry be next?

Offshore operators in the Gulf of Mexico are experiencing substantial growth and industry activity there is projected to increase by 60% over the next five years². To keep pace, the U.S. Coast Guard (USCG) will be forced to increase its inspections.

- November 2012: USCG and the U.S. Bureau of Safety and Environmental Enforcement (BSEE) executed a Memorandum of Understanding regarding cooperative enforcement on the Outer Continental Shelf (OCS)³. Historically, BSEE (through its predecessor agencies) exercised jurisdiction when the facility was attached to the seabed; while USCG regulations governed the same facility when in transit.
- February 2013: U.S. sued rig operator after inspectors discovered a metal tube "hidden in the rafters" allegedly being used to allow dispersants to bypass compliance inspections and mask unlawful oil discharges.
- USCG announced it is considering establishing a single Marine Inspection unit to oversee marine inspections for all MODUs and Floating OSC facilities engaged in exploration or production in the Gulf of Mexico⁴.

- Regulatory provisions governing MODU and OCS facility operations in the United States are numerous, confounding and often carry criminal sanctions.
- The U.S. government's Vessel Pollution Initiative resulted in more than \$330 million in criminal fines and more than 26 years of prison confinement as a result of MARPOL violations.
- "Trust but verify" – Overreliance on unenforced written policies can lead prosecutors from a rig straight into the boardroom. Only those companies that are committed to enforcing their policies through purposely designed audit programs can minimize that risk.

How can your company minimize these risks?

Reliance on traditional Safety Management Systems (SMS) or Safety and Environmental Management Systems (SEMS) audits is not enough. Flag Administration and Class inspections may be too cursory, have different objectives and are not privileged from disclosure to U.S. authorities. These programs proved to be ineffective for the shipping industry.

A self-critical compliance audit program is essential. If violations are discovered through an internal compliance program, a Voluntary Disclosure to the USCG or Environmental Protection Agency should be considered after consulting with legal counsel. The benefit of a successfully executed Voluntary Disclosure is that the respective agency will not make a criminal referral to the Department of Justice (DOJ). If DOJ is already involved, the existence of a robust compliance program must be considered by prosecutors when deciding whether to file criminal charges against a company. A vigorous compliance program can also be used to argue against debarment. As further deterrence, a debarred company is unable to participate in any federal contacts until the government determines that the company is "presently

responsible." Debarment can be fatal to a company that operates or drills on parcels leased from the government.

Every MODU operator has written policies supporting environmental stewardship. Yet, overreliance on unenforced written policies can lead prosecutors from a rig straight into the boardroom. Experience demonstrates that only those companies that enforce their policies through purposely designed audit programs receive credit when the government decides who will be prosecuted or debarred. From the government's view, written policies are only as good as the internal commitment to ensure compliance and documentation of that compliance.

The mantra is "trust but verify." Trust that company procedures are being followed; but, verify through audits. Trust that your audits are meaningful and comprehensive; but verify by auditing your auditors. If you don't, the government will.

- 1 ACCOMPLISHMENTS REPORT, Fiscal Year 2012, UNITED STATES DEPARTMENT OF JUSTICE, ENVIRONMENT & NATURAL RESOURCES DIVISION date January 17, 2013.
- 2 78 Federal Register 48180 dated August 7, 2013
- 3 www.uscg.mil/hq/cg5/cg522/docs/mou/BSEE_USCG_MOU_NOV_2012.pdf.
- 4 78 Federal Register 48180 dated August 7, 2013



Determining the scope of coverage for additional insureds: US Fifth Circuit Appeal Court decision in the Deepwater Horizon litigation



Ursula O'Donnell, Offshore Claims Director

+44 20 3320 8813
ursula.odonnell@ctplc.com

The below article considers a recent important Appeal Court decision, which held that under Texas law the rights of an additional insured named on an insurance policy are governed by the language of the policy and not by the indemnity provisions in the underlying contract.

Background facts

In April 2010, the Deepwater Horizon drilling rig sank in the Gulf of Mexico as a result of the blowout of the Macondo well, which led to the death of 11 workers and set off the worst offshore oil spill in US history. At the time of the incident, the rig was engaged in exploratory drilling at the Macondo well under a Drilling Contract between Transocean and BP. Under the terms of the contract, Transocean, which was the owner of the rig, was obliged to indemnify BP against liabilities for pollution originating on or above the surface of the water, whereas BP was obliged to indemnify Transocean against all other pollution, which included pollution from the well.

The Drilling Contract required Transocean to maintain various insurances and provided that "*BP, its subsidiaries and affiliated companies... shall be named as additional insureds in each of Transocean's policies... for liabilities assumed by Transocean under the terms of this contract*". Transocean maintained primary and excess liability insurance policies in the amount of \$750m.

Claim

In 2011, BP filed a claim against Transocean's insurers in the Texas District Court (Texas law being the applicable law of the insurance policies) seeking access as an additional insured to the insurances to cover their pollution liabilities. BP argued that the



insurance policies alone and not the indemnities detailed in the Drilling Contract governed the scope of their coverage rights as an additional insured. Transocean's insurers argued that BP was only entitled to coverage for liabilities that Transocean had assumed under the Drilling Contract and that BP did not have access to the insurances with respect to liabilities that BP had assumed under the contract.

On 15 November 2011, the Texas District Court held that the additional insurance coverage was only as broad as the indemnity in the underlying Drilling Contract and therefore denied BP coverage and issued judgment in favour of the insurers. BP appealed against this decision.

Appeal

In March 2013, the Fifth Circuit Court of Appeals¹ reversed the District Court's decision. It relied upon the case of ATOFINA (2005)² in which the Texas Supreme Court held that under Texas law only the terms of the insurance policy itself and not the provisions of the indemnities in the underlying contract determine the scope of coverage afforded to the additional insured, providing the additional insured provision and the indemnity provisions in the underlying contract are separate and independent of one another. The Appeal Court found that the insurance and indemnity provisions in the Drilling Contract were "separate and independent" and on this basis decided that they were only bound to look to the policy terms to determine the scope of additional insured coverage. The Appeal Court held that since the Transocean policies did not contain any limitation on additional insurance coverage or incorporate the limits from the Drilling Contract (i.e. that BP was only entitled to coverage for liabilities assumed by Transocean under the contract), BP was entitled to full coverage for its pollution liabilities under the policies.

The case has not yet reached resolution. The Appeal court has recently decided to withdraw its own opinion, and has referred the case back to the Texas Supreme Court. At the time of the writing the initial decision of Judge Barbier stands.

Conclusion

The principal lesson that can be learned from this decision is that members should contract on terms that expressly limit access to their insurance policies by additional insureds so that coverage is restricted to liabilities that have been assumed by the member under the contract and they should ensure that the wording of their insurance policies reflects this fact.

Members should not be exposed to this particular risk under the terms of their P&I cover with the club, as the contract of insurance between the member and the club is governed by and construed in accordance with English law. Furthermore we only provide P&I cover to co-assureds on a 'misdirected arrow' basis (in accordance with rule 13.6). This means that cover is limited to liabilities which are properly the responsibility of the member under the terms of their contract with the co-assured. It does not cover liabilities assumed by the co-assured under the contract.

1 In Re: Deepwater Horizon No. 12-30230, 2013 WL 776354 (5TH Cir. Mar 1, 2013)

2 Evanston Insurance Co v ATOFINA Petrochemicals, Inc, 256 S.W. 3rd 660 (Tex. 2008)

Singapore – regional offshore marine hub



Sharmini Murugason, Regional Offshore Claims Director, Singapore

+65 6506 2867
sharmini.murugason@ctplc.com

“Location Location Location!” is a phrase that rings so true of the dynamic and visionary island republic and city state of Singapore. With no natural resources other than its skilled people and a strategic location in Asia Pacific (APAC), Singapore’s long-term plan has been to develop and maintain the country as a hub of diverse disciplines and industries in order to attract foreign investment and, more importantly, to create jobs for the future. The focus of this article is Singapore’s strengthening position as regional hub for offshore marine.

The global offshore oil and gas sector is buoyant, fuelled by high oil prices and increased exploration and production (E&P) spending by multinational and national oil and gas companies. This has a knock-on effect on all sectors of offshore marine and related businesses, creating an industry boom that clearly can be seen in APAC.

The E&P spending in APAC for 2012-2013 is estimated at \$56.3bn and is rising. This rise is especially apparent following the recent lifting of UN sanctions against oil and gas rich Myanmar and its unsurprising attraction for oil and gas multinationals. Malaysia, Indonesia, Australia, India, China, Thailand and Vietnam continue to be active. There are about 615 producing offshore oil and gas fields in the region, and 20 new fields were discovered in 2012.

Singapore is well positioned to service all aspects of offshore oil and gas operations in the region and is increasing its global reach. It has carefully created the right conditions to make it attractive for foreign companies to set up and operate from this safe oasis. This is largely due to the conscious but discerning encouragement of relocation and growth of the correct and appropriate marine clusters and associated services that are needed to sustain the offshore marine “ecosystem”. All these enhance Singapore as a hub of offshore marine that operates against a backdrop of a modern, safe and impartial environment.

We will look briefly at some of these marine clusters and associated services.

Shipowners and operators

For starters, Singapore provides various incentives and schemes, including attractive tax concessions that encourage companies to register their ships and locate their businesses in the country. There are floating production storage offloading units (FPSOs) and mobile offshore drilling units (MODUs) being registered in Singapore as ‘ships’, and also flying the Singapore flag are construction and installation shipowners, platform supply vessels (PSV) and anchor-handling tugs (AHT) owners, and some of the world’s leading professional salvors, many of which are Standard Club members. All are important players in offshore oil and gas exploration, production and support. Leading offshore specialised shipbrokers have set up offices in Singapore to be closer to the regional oil and gas activities and to find and fix the specialist ships needed to service the offshore oil and gas sector.

Ship building, conversion and repairs

Singapore is the global leader in both offshore rig construction and FPSO conversion, with the former generating S\$9.08bn in 2012 or 61% of the country’s marine and offshore engineering industry. Furthermore, 2012 saw 11 FPSO conversion and upgrading projects, and to date Singapore has completed 106 FPSO conversions. APAC is one of the biggest users of FPSOs and there are presently 53 in service in the region. 2012 also saw 110 high-spec new builds launched, which were predominantly offshore PSVs and AHTs. Certainly, the Singaporean yards enjoy an excellent reputation for quick delivery of high-quality and specialised ships. However, they face tough competition from regional neighbours due to the present high demand and a lack of physical space in the yards to build these ships.



Insurance

Insurance is important to offshore marine, and the insurance markets have moved closer to this growing region. They have largely chosen Singapore as their base and springboard. A number of Lloyd's Syndicates have a presence in Singapore as Lloyd's Asia, through 18 service companies and their offices, and even replicate the Lloyd's of London headquarters' 'market' environment. They keep company with most of the other remaining global, regional and indeed local reinsurers. These are in turn serviced by leading marine and energy adjusters who need to be close to the property actually insured by the market. CT Energy, Aviation, Marine and Non-Marine have been present in Singapore since 1997. The Standard Club Asia Ltd (a subsidiary of the Standard Club Ltd) is the only standalone club of the International Group of P&I Clubs in Singapore, demonstrating a full commitment to Singapore and the region. It was set up in 1997 to provide insurance cover in respect of third-party liabilities arising from the operation of its members' ships, including those engaged in offshore marine activities. While four other IG Clubs have a presence here, they only maintain branch or satellite offices.

Legal

The complex and high-risk business of offshore marine requires specialised legal support. Singapore has seen a rapid rise in the number of law firms, both local and international, that specialise in all aspects of offshore from financing, contracting,

insurance and casualty management. Apart from its own sophisticated legal system, which is founded on the English common law system and experienced judiciary, it is fast becoming the preferred destination for arbitration. Indeed, while London remains the most widely used seat of arbitration, it is followed in order of preference by Paris, New York, Geneva and then Singapore. There are many factors for Singapore's eminence: its reputation for impartiality and neutrality, the legal infrastructure (Singapore is party to the New York Convention, which recognises the enforcement of foreign arbitration awards), the specialised legal fraternity, its geographic position with excellent transportation links to APAC and its role as an increasingly good 'bridge' between APAC and the rest of the world. Finally, it boasts a premier state-of-the-art dispute resolution centre, the Maxwell Chambers, where the arbitrators even have their own lounge.

Conclusion

As one Singapore-based Norwegian marine service provider commented: "*Singapore is run like a business.*" Indeed, its focus is pro-business, making sure the infrastructure to support its marine and energy 'ecosystem' is in place by attracting all the necessary marine clusters and related services, and more importantly ensuring that they too in turn are fully supported. This is what makes Singapore so attractive to companies relocating to this safe oasis of convenience, efficiency and stability in the midst of a fast-developing and yet still economically and politically uncertain region.

Swire Marine training centre



Ian Offland, Swire Pacific Offshore

+ 65 6309 3609
ian.offland@swire.com.sg



In November 2006, Swire Pacific Offshore (SPO) established its integrated training centre, Swire Marine Training Centre (SMTC) in Singapore. The rationale behind this decision was to enhance its ability to recruit, train and retain seafaring staff in a competitive manpower supply market.

Formation of SMTC and its rationale

SMTC was officially opened in March 2007 by then Minister of State for Finance and Transport of Singapore, Mrs Lim Hwee Hua. The proximity of the training centre to SPO's head office in Singapore allows senior management to hold regular dialogue sessions with the seafaring personnel. This communication is vital as SPO continues to expand its fleet and recruit new staff, in particular, seafaring staff. In 2010, SPO purchased the building which houses SMTC. This strategic move bore testimony to SPO's strong commitment to develop the training ability of SMTC in Singapore.

Since its inception, consistent efforts have been made to develop and expand its capabilities and infrastructure. Today, SMTC houses 30-seat auditorium, two conference rooms, five training classrooms, two fully equipped simulator bridges complete with DP 2 systems, one engine control room and associated engine-room space, eight desktop engine room simulators, 10 desktop bridge simulators, nine desktop DP simulators as well as a mess room with internet facilities.

Focusing on safety and excellence in marine services

SPO believes in operating our business safely, professionally, responsibly and sustainably. SMTC's primary role is to provide training for internal staff, offering ongoing professional development to SPO personnel. As the focal point for marine training, SMTC conducts training courses in numerous disciplines from Anchor Handling, Dynamic Positioning to Electrical and Control Engineering and Safety Management amongst others. To facilitate these training programmes, SMTC is

well-equipped with a world-class, purpose-built simulator facility that is unique to SPO.

SMTC has become a flagship training hub for SPO. One important success factor of SMTC lies in the wealth of operational experience of the instructors, many of whom have been with the company for more than 25 years and are highly knowledgeable and well-regarded in the industry. SMTC also takes a proactive approach to gather feedback from participants, review internal and industry incidents so as to improve the course content. Relevant case studies are also incorporated into the training materials to reinforce safety awareness.

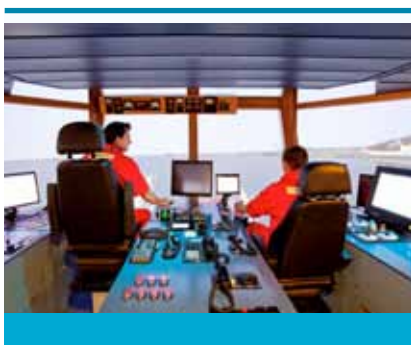
Training & staff development

The initial training schedule for 2007 was based on 200 internal attendees in the first year. Within five years, in 2012, SMTC has achieved an exponential growth of over 700%, with 1,400 attendees, of whom almost 600 are external / third parties.

Capacity, throughput and the variety of courses have grown steadily over the years. From June 2007 till December 2012, SMTC has conducted a total of 367 four and five-day courses and trained 2,982 officers.

The number of courses offered at SMTC has also increased, from one Safety Management course in 2007 to 14 courses in 2012. In 2013, SMTC is scheduled to conduct training for 43 weeks, offering 121 courses covering 15 subjects and is expected to have an attendance of 965 officers. In fact, there are as many as five courses that concurrently run, with an average weekly attendance of 22 officers.





Typically, a junior officer will attend a three-week training and induction programme at SMTC upon joining the company. This will be followed by ongoing specialised training/evaluation courses every three to four years throughout his career with SPO. In the long term, we hope to instil a strong sense of belonging and enhance staff retention.

The Standard and Advanced Safety Management courses provide opportunities for participating officers and instructors to network and interact. It also serves as an ideal platform for the senior management of SPO to meet the middle and junior officers and highlight key corporate values, such as the importance of teamwork and safety in the offshore industry. Guest speakers are also invited to share their expertise during these courses.

SPO employs staff from 49 different nationalities, and places great emphasis on inclusion and diversity. SMTC plays a crucial role in ensuring that awareness and benefits of national, cultural and religious differences are actively discussed, understood and embraced by participants. In fact, new seafaring staff from as far as Norway have been sent to Singapore to attend the safety management training course conducted in SMTC as part of their induction into the company.

Serving our key stakeholders and clients

Beyond internal training, SMTC also serves the maritime community at large, in particular, the valued stakeholders and clients of SPO. A number of courses have been provided to external partners on a request basis. These include DP Awareness courses for dive supervisors and surveyors through local entities such as KB Associates and ABS, as well as Anchor Handling courses for Total Indonesia and Gulfmark SE Asia.



Other notable achievements

- SMTC has adopted Competence Assurance for all courses in advance of regulatory requirements. This includes simulator-based operational assessments for all officers prior to promotion to Master or Chief Engineer.
- SMTC is the only MCA accredited Marlins English testing facility in Singapore.
- SMTC actively engages in knowledge sharing with our stakeholder communities. Take for instance, SPO has an ongoing partnership with the Regional Maritime University (RMU) in Accra, Ghana, whereby one of the SMTC instructors will go to Ghana to share his expertise and raise awareness on safety issues in the offshore industry. SPO also provides sponsorship for a deck and an engineering instructor from Ghana to spend one month in Singapore to observe the courses conducted in SMTC and explore ways in which SPO can assist the university.
- SMTC has also reviewed and enhanced Back Deck Safety Training Courses for our Junior Officers and Crew. This course is currently a 5-day programme, completed at Consolidated Training Systems Inc. Philippines.

SPO and its continuous efforts to strive for excellence

Headquartered in Singapore since 1975, Swire Pacific Offshore operates a diverse fleet of more than 80 offshore support vessels, including anchor handling tug supply vessels, platform supply vessels, ice-breaking supply vessels, anchor handling tugs, seismic survey vessels, wind-farm installation vessels, accommodation vessels and multi-purpose offshore vessels.

Though the cost of operating SMTC is by no means meagre, the establishment of the training centre exemplifies SPO's strong focus on safety. With an annual operating budget of SGD10.5 million, SMTC is an important investment that SPO has pledged to strive for excellence in safety, quality and professionalism on board our vessels and in the marine services we offer.

FLNG – operators step hard on the gas



**Chris Brown, Director –
Energy CT Adjusting**

+44 20 7015 2028
chris.brown@ctplc.com

With the demand for global energy expected to triple over the next few decades as emerging economies develop, oil and gas operators are looking toward innovative and pioneering technologies to open up new resources. The world's demand is not just for more energy, but for cleaner energy. Natural gas, the cleanest of all fossil fuels, offers an affordable and environmentally acceptable source.

Current offshore production facilities rely on expensive subsea pipelines to export natural gas to shore, either direct to the end user or to an onshore liquefaction plant. Liquefied natural gas (LNG) plants cool gas into its liquefied state, which enables it to be transported by sea in LNG carriers.

A new vision

Floating liquefied natural gas (FLNG) technology offers an effective solution to the problem of producing and exporting gas ashore. Floating above an offshore natural gas field, an FLNG facility produces, liquefies, stores and transfers LNG (and potentially Liquefied Petroleum Gas (LPG) and condensate) to shuttle carriers for export direct to market. Without the need for export pipelines, FLNG will enable the development of gas resources ranging from clusters of smaller more remote fields to much larger discoveries that could accommodate a number of FLNG units in production at any one time. In theory, the floating production facilities will be redeployable upon depletion of fields.

FLNG technology also provides a number of environmental and economic benefits. In addition to eliminating the need to lay long pipelines, there is no requirement for offshore compression units to pump the gas to shore or for the construction of coastal LNG facilities, which cause marine and coastal environmental disturbance. Combine the benefits and the result is new development opportunities for offshore gas fields that would otherwise remain stranded. There is currently estimated to be 60-70 trillion cubic feet (tcf) of stranded gas offshore East Africa, 40-50 tcf offshore

Norway, 30-40 tcf offshore Brazil and 100-110 tcf offshore Australia.

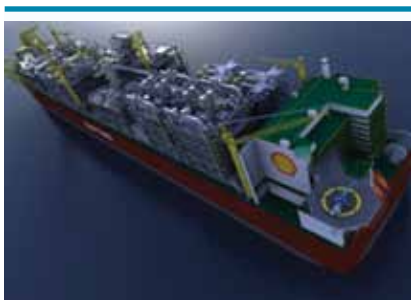
Research and development

FLNG is understandably a hot topic. However, the concept is not a new one. Studies into offshore LNG production, including research backed by experimental development, have been carried out since the mid-1990s. Shell has been conducting its own studies, simulations and testing for almost 15 years. This work has culminated in one of the first FLNG developments, Shell's Prelude FLNG, representing an estimated investment of approximately \$11bn. The hull will be 488m in length, 74m in beam, and when fully ballasted will weigh around 600,000 tonnes (roughly six times as much as the USS Nimitz aircraft carrier). The detailed design of the unit is being undertaken by a Technip Samsung Consortium in Paris, and is being built in Samsung Heavy Industries' Geoje yard in South Korea. Hull construction is expected to be completed by the end of 2013, but start-up in the field will not commence until 2017. The Prelude gas field was discovered by Shell in 2007, located 200km off Australia's north-west coast. The Prelude FLNG will produce at least 5 million tonnes per year of LNG, LPG and condensate at peak production, remaining in the field for 20 to 25 years before needing to dock for inspection and overhaul.

Despite the rapid progress being made by a number of consortia, FLNG is certainly not without its challenges. Only a few facilities worldwide are capable of fabricating the giant hull structures necessary to provide sufficient deck space for the liquefaction process facilities, even though current



**SBM's mid-scale FLNG concept
(Courtesy of SBM)**



Prelude FLNG artist's impression
(Courtesy of Shell)

designs enable the configuration of all LNG plant components into a relatively small area, roughly one quarter the size of a conventional onshore plant. FLNG units may be required to operate in hostile environments and understanding how a facility behaves, including how its process facilities perform, is required. Stability, structural integrity and safety are critical. Shell's Prelude FLNG and its mooring system have been designed to withstand a Category 5 cyclone. Although it is possible nowadays to design membrane type LNG containment systems for partial filling, tank sloshing due to hull motions remains a risk factor, requiring extensive modelling to fully understand the loads imposed on the hull structure.

New regulations?

The hazards associated with hydrocarbon leaks, whether gaseous or cryogenic liquid, need to be mitigated. Experience here in regard to the design of modules, the segregation of facilities and safety of equipment is no doubt being drawn from existing FPSO, LNG carrier and onshore LNG technologies. The certification of equipment with special attention to its application in the marine environment is also fundamental to mitigating this risk, and the application of existing relevant standards and codes will be strictly observed by regulators. One expects that it will not be long before specific rules and regulations are published.

Challenges and opportunities

Like an FPSO, the FLNG concept relies heavily on its ability to safely offload product onto shuttle vessels. Having large vessels in close proximity poses a significant risk and one which requires extensive modelling. With Prelude, for example, the LNG shuttle carriers will moor alongside the FLNG hull to allow the specially designed LNG and LPG loading arms to be connected – the FLNG hull will at least provide some

shelter to its shuttle. Other solutions may not offer this benefit.

The numerous challenges and risks have not discouraged other operators from selecting FLNG technology as the preferred option for developing remote gas fields. Current projects include:

- The Woodside-operated Browse LNG project located in the Indian Ocean, 425 km north of Broome in Western Australia (utilising Shell's FLNG technology).
- The Woodside-operated Sunrise LNG project in the Timor Sea, 450km north-west of Darwin (again, utilising Shell's FLNG technology).
- Petronas-operated FLNG destined for the Kanowit gas field offshore Malaysia, currently under construction in Daewoo's shipyard in Korea.
- Inpex Masela operated Abadi LNG project in the Masela block of the Timor Sea, currently in the FEED stage.
- Bonaparte FLNG project offshore Australia, in a joint venture between GDF Suez Bonaparte and Santos, awaiting final investment decision.

The selection process is likely to become easier as alternative FLNG solutions are developed. SBM is currently developing a mid-scale FLNG concept based on the conversion of two Moss LNG carriers that are joined together using a technique patented by SBM Offshore. The key advantages of this are claimed to be significant cost and schedule savings compared with new-build hull options. FLNG design and innovation will no doubt continue to be pushed.

New EU Directive on the safety of offshore oil and gas operations



Ursula O'Donnell, Offshore Claims Director

+44 20 3320 8813
ursula.odonnell@ctplc.com

The aim of the Directive is to set minimum standards for safe offshore oil and gas operations and reduce the consequences of major accidents.

There are more than 1000 offshore oil and gas installations operating in European waters. Whilst almost half in operation are located offshore the UK, interest in offshore oil and gas exploration and production is growing throughout the European Union (EU) and to date 13 Member States (including Denmark, Italy and the Netherlands) have awarded offshore oil and gas licences. However there is no comprehensive risk management regime in place as different Member States apply different environmental and health and safety standards.

European review

In 2010 the European Commission (EC) initiated a review of the regulatory framework relating to offshore oil and gas operations across the EU. This was in response to the *Deepwater Horizon* disaster as it was feared that a similar incident could occur in EU waters. The following year the EC published a draft Regulation on the safety of offshore oil and gas operations. This caused concern in jurisdictions such as the UK, which already have well developed safety regimes in place, as the Regulation would not need to be implemented into national law and would have direct legal effect. After lobbying from the oil and gas industry, the EC decided to change the form of the law to a Directive, which means that it will be left to Member States to decide how it should be implemented. This decision was particularly welcomed in the UK as it means that the extensive regulatory regime introduced following the *Piper Alpha* disaster can largely remain in place.

The Directive (2013/30/EU) came into force on 18 July 2013. Its objective is to establish a minimum standard of regulation across the EU in order to reduce the incidence of major accidents. Günther Oettinger, the EU Commissioner for Energy, remarked that *"these rules will make sure that the highest safety standards already mostly in place in some Member States will be followed at every oil and gas platform across Europe"*.

A new direction

The Directive applies to both future and existing offshore installations (i.e. fixed or mobile) throughout the whole lifecycle of exploration and production activities from design to operation, decommissioning and permanent abandonment¹.

Its main provisions:

- Member States' licensing authorities must assess the technical and financial capability of licensees and only award licences to those who have proved that they are technically and financially capable of covering potential liabilities arising from offshore oil and gas operations.
- Prior to commencing exploration or production operations, operators are required to submit a report to the Member State's competent authority² describing the potential major hazards for their installation, a major accident prevention policy, a safety and environmental management system and an emergency response plan.

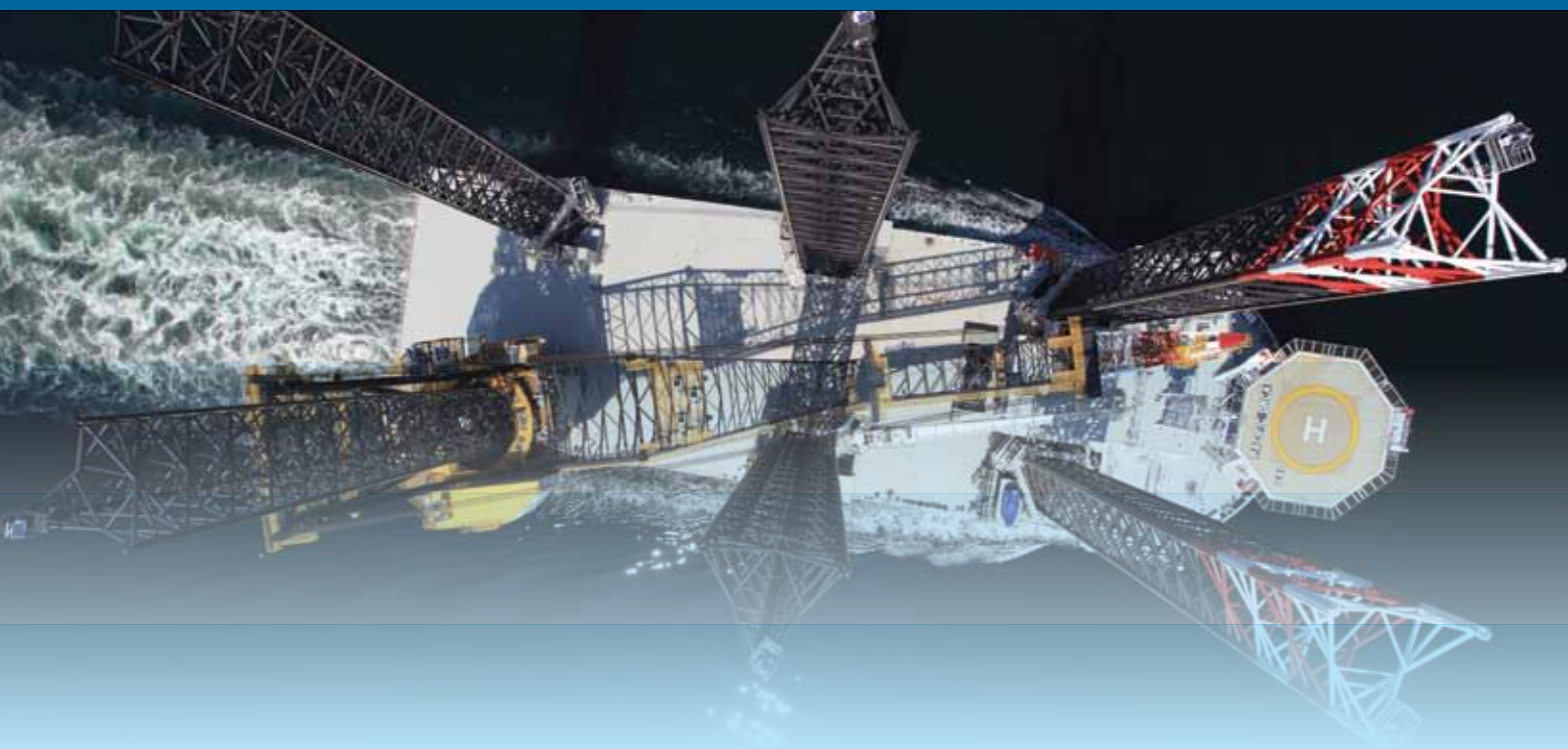
- This report will be assessed by the Member State's competent authority and is subject to a thorough periodic review by the operator every 5 years. There is already a requirement under existing UK law for operators to prepare a safety case but this focuses on hazards to the health and safety of the workforce rather than environmental risks.
- Operators' internal emergency response plans must be site specific and based on risks and scenarios identified in the major hazard report. For example, in the case of a mobile offshore drilling unit, the operator must ensure that the emergency response plan applies to the specific location and the well operation hazards and that it is regularly tested by the operator.
- Operators are required to take "all suitable measures" to prevent major accidents i.e. to limit the consequences to human health and the environment. This differs from current UK law which refers to reducing risks to "as low as reasonably practicable". It's unclear whether "all suitable measures" is a more onerous standard.
- Operators will not be exonerated from liability if the acts or omissions of their contractors cause major accidents.
- Member States must ensure the independence and objectivity of their competent authorities i.e. prevent conflicts of interest from arising by having a clear separation between regulatory functions relating to offshore safety and the environment and those relating to economic development (i.e. licensing and the collection of revenues).
- The licensee shall be held financially liable for the prevention and reparation of environmental damage as defined under the EU Environmental Liability Directive (ELD) caused by "*operations carried out by, or on behalf of, the licensee or any operator*". This means that the licensee rather than the operator or contractors shall be liable for environmental damage under the ELD.
- It also extends the geographical application of the ELD to offshore installations operating in the Exclusive Economic Zone (200nm from the coastline) and the continental shelf of a Member State. At present the ELD only applies to environmental damage within territorial waters (12m miles of the coastline).

The Directive does not deal with civil liability that the licensee may bear for third party damage arising from offshore oil and gas operations. The EC has commissioned Maastricht University to carry out a study on the effectiveness of existing liability regimes in Member States assessing whether they could be broadened out across the EU to provide a comprehensive liability regime.

Member States are required to implement the provisions of the Directive into national law within 2 years (5 years for existing installations). Responsibility for its enforcement remains with their competent authorities. Member States with offshore waters that do not have oil and gas operations under their jurisdiction and landlocked countries with offshore oil and gas companies registered in their territories will only need to apply a limited number of its provisions.

Further details can be found on the website for the **European Commission**.

- 1 It only applies to mobile offshore units whilst they are stationed offshore carrying out drilling or production operations, and not whilst they are in transit.
- 2 Under the current UK regime, this means the Health and Safety Executive (which is responsible for enforcing health and safety legislation) and the Department of Energy and Climate Change (which is responsible for enforcing environmental legislation).



New BIMCO WINDTIME Charterparty for windfarm support vessels



Ursula O'Donnell, Offshore Claims Director

+44 20 3320 8813
ursula.odonnell@ctplc.com



On 27 May 2013, the newly developed WINDTIME Standard Offshore Wind Farm Personnel Transfer and Support Vessel Charter Party (WINDTIME) was adopted by BIMCO's Documentary Committee.

This new charterparty has been specifically designed to meet the increasing demand for small high-speed craft capable of transferring personnel and equipment to carry out the maintenance of offshore wind turbines. Until now, the wind farm sector has tended to rely upon amended Supplytime 2005 contracts to charter these support vessels.

WINDTIME has been the result of two years' work by a team of industry experts representing workboat and windfarm operators, with additional guidance from legal and P&I representatives, including Fabien Lerede, the Standard club's Offshore Syndicate Claims Director.

Based on BIMCO's Supplytime 2005 charterparty, it provides for a knock-for-knock allocation of liability regardless of fault whereby owners and charterers are each responsible for and provide an indemnity in respect of the loss and/or damage to its property and the injury and/or death of its contractors and contractors (and client in the case of Charterers) without recourse to the other party. Unlike SUPPLYTIME 2005, the knock-for-knock indemnities under WINDTIME apply regardless of gross negligence as well as simple negligence. However, it differs from SUPPLYTIME 2005 in that if a member of the Owners or Charterers Group intentionally or recklessly causes loss, damage, injury or death, with knowledge that such consequences would probably result (i.e. if there has been wilful misconduct), the knock-for-knock indemnity provisions will not apply, which may lead to an increased risk of litigation.

Another major difference to Supplytime 2005 is the cancellation provisions. Under SUPPLYTIME 2005, if owners miss the cancellation date and charterers elect to cancel the charterparty, charterers have no recourse against owners for losses that might arise during the project preparation phase, such as the cost of standby machinery, equipment and personnel. Under WINDTIME, if owners know that they will be unable to deliver the vessel by the cancelling date, they are required to notify the charterers in writing, stating the date by which they will be able to deliver the vessel. This reflects the critical importance of the vessel arriving when expected, given the costly and lengthy project preparation involved in wind farm projects. Charterers are entitled within three days of receiving such notice to cancel the charterparty. There is also an option to require owners to pay liquidated damages if they fail to deliver the vessel from the original cancelling date until such time as owners have delivered the vessel or a substitute vessel or charterers elect to cancel the charterparty.

Further details can be found in the explanatory notes to WINDTIME which is available on the **BIMCO website**.



Nairobi Wreck Removal Convention from an offshore perspective



**Fabien Lerede, Offshore Syndicate
Claims Director**

+44 20 3320 8898
fabien.lerede@ctplc.com

To date, eight countries (including more recently the UK) have ratified the Convention, while five others have signed up to it. We therefore anticipate that the Convention will soon have the force of law and therefore propose in this article to look more closely at its provisions from an offshore point of view.

Background

As a starting point, the Convention applies to all seagoing vessels of any type whatsoever, including “submersible, floating craft and floating platforms except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources”. It therefore appears that the Convention will apply to FPSOs or drilling units when they are in port or being towed to the field but not to FPSOs or drilling units otherwise engaged in drilling or producing activities in the field. However, in the absence of a clear definition of ‘floating platform’, there are some uncertainties with regards to the ambit of this exclusion. For example, it is debatable whether drilling ships qualify as ‘floating platforms’ since these two terms have been distinguished in other IMO conventions (see Article 15 of the LLMC76).

The Convention only applies to wrecks within a State’s Exclusive Economic Zone (12nm – 200nm) unless State Parties elect to extend the application of the provisions of the Convention to wrecks located within their territory, including their territorial waters. The Convention therefore has the potential to apply to ships that have sunk in deep or even ultra deep water. In addition, Article 6 provides that when determining whether a wreck poses a hazard, the affected state can take into account various criteria, including the proximity of offshore

In the Standard Bulletin dated 31 July 2007, the club reported on the adoption of the Nairobi International Convention on the Removal of Wrecks 2007 (the Convention), which requires ratification by 10 states in order to come into force.

installations, pipelines, telecommunications cables and similar structures. Therefore, nothing in principle would prevent the State of Nigeria, which is party to the Convention, from issuing a lawful wreck removal order against the owner of an anchor handling tug that is lying on the seabed at a depth of 500m in close proximity to a pipeline. In many ways, the Convention improves the position of our shipowner members, who often contractually assume liability for the wreck removal of the entered ship if it simply interferes with the charterers’ operations. Such liability traditionally goes beyond poolable P&I cover either because the relevant authorities may not be competent to issue a legal wreck removal order or simply because the wreck is not a danger to navigation. In such cases, the members may be forced to rely upon their Contractual Extension cover purchased from the club. Under the Convention, the same incident may well prove to be poolable simply because the authorities now have a wider power to determine that the ship is a hazard.

Compulsory insurance and direct right of action

The Convention provides that the owner of a ship of 300gt or more that is registered in a State Party has to maintain insurance or financial security to cover liability under the Convention. The amount of insurance that the shipowner is required to maintain is determined by the shipowner’s limit of liability under the LLMC, as amended. This provision is similar to the compulsory insurance provisions of other international maritime conventions on liability and compensation (i.e. CLC, Bunkers and HNS Conventions).

Upon determination that such insurance or financial security is in place, each State Party shall issue certificates of insurance or

financial security to all ships that are included in their ship registry. The State Party is to ensure that no ships included in their registry operate without such a certificate. Ships registered in a state that is not party to the Convention may acquire certificates from any other State Party.

In addition, any claim for costs arising under this Convention may be brought directly against the insurer, i.e. against the club. In such a case, the club will be able to invoke all defences available to the member (other than the bankruptcy or winding-up of the registered owner), including limitation of liability. Furthermore, the club will be able to limit liability to an amount equal to the amount of insurance or other financial security required under the Convention even if the registered owner is not entitled to limit liability.

In other words, the Affected State and any other party that may have a claim under this Convention could recover, at least some of their costs, from the insurers, even if the shipowner becomes insolvent following a shipwreck.

Conclusion

The broad definition of ship, together with the wide-ranging criteria taken into account to determine whether a wreck is a hazard, will significantly increase the power of State Parties to the Convention to intervene following a maritime casualty. As a result, it is expected that there will be an increase in exposure for wreck removal both in terms of the number and value of claims. Only the future will tell whether this increased risk is a cause for concern and to regret the absence of recognition of an express right to limit liability for wreck removal.

The Maritime Labour Convention 2006



Rupert Banks, Offshore Claims Executive

+44 20 3320 8887
rupert.banks@ctplc.com

In the Standard Bulletin editions of February and April 2013, we reported on the Maritime Labour Convention 2006 (MLC), and its enforcement and compliance. In this article, we discuss several features of the Convention that present distinctive challenges peculiar to the offshore sector.

Does the Convention apply to all offshore ship types?

The MLC came into force on 20 August 2013 and applies to ships of 500gt and above that are ordinarily engaged in commercial activities. 'Ship' is expressly defined in the Convention as "a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply". Given this wide definition of 'ship', the Convention ostensibly applies to most offshore ship types, including Mobile Offshore Drilling Units (MODUs) and Mobile Offshore Production Units (MOPUs).

However, several Flag States that have ratified the Convention have taken the view that MODUs and MOPUs should be exempted from the certification requirements of the Convention as they consider them to be installations rather than ships. Accordingly, MODUs and MOPUs that are flagged in states such as the Marshall Islands, Panama and the Bahamas will not be required by those states to comply with the requirements of the MLC. Similarly, Singapore has exempted MODUs from MLC compliance, although a decision on whether MOPUs should also be exempted will be made by Singapore at a later date. Despite exempting MODUs and MOPUs, these Flag States generally encourage voluntary compliance so as to avoid adverse action by Port States that do not share the view that these units should be exempted. Members that operate MODUs and MOPUs should consult with

their Flag States if they are in any doubt about the applicability of the MLC to their particular units.

Definition of 'seafarer'

Under the Convention, a shipowner has strict obligations in respect of the working conditions and welfare of 'seafarers'. A 'seafarer' is defined under the Convention as "any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies". In light of this broad definition, operators of offshore ship types may find themselves liable in the first instance for MLC compliance in respect of not only their own marine crew, but also other persons who are working on board, such as the charterer's or the client's personnel. To counteract this, BIMCO has developed the **MLC 2006 Clause for SUPPLYTIME 2005**, which provides that the charterer contractually assumes liability for MLC compliance in respect of charterer's personnel, which includes those persons employed by the charterer, their contractors, subcontractors and client. Whilst primarily designed to be used with the **SUPPLYTIME 2005 form**, offshore members should consider incorporating similar clauses into their other offshore contracts.

Members operating in the offshore sector should inform the club of the number of persons working on board, other than their own marine crew (e.g. charterer's personnel or subcontractors). In addition, they should particularly ensure that the employers of such other persons on board have adequate insurance in place to respond to repatriation liabilities under MLC in the event that the employer becomes insolvent.

Members should consult with their usual club contact if they have any queries. The club will continue to follow developments in respect of the implementation of the MLC.

Offshore syndicate

Robert Dorey

Offshore Director
T: +44 20 3320 8831
M: +44 7775 515878
robert.dorey@ctplc.com

Underwriting

Claire Wheeler

Offshore Underwriter
T: +44 20 3320 8880
M: +44 7795 837940
claire.wheeler@ctplc.com

John Croucher

Offshore Underwriter
T: +44 20 3320 8879
M: +44 7917 464693
john.croucher@ctplc.com

Ian Billington

Offshore Underwriter
T: +44 20 3320 2229
M: +44 7825 546228
ian.billington@ctplc.com

Joseph Divis

Offshore Underwriter
T: +44 20 3320 8806
M: +44 7585 902091
joseph.divis@ctplc.com

Sian Meadows

Offshore Deputy Underwriter
T: +44 20 3320 8967
M: +44 7880 096236
sian.meadows@ctplc.com

Hannah Day

Offshore Deputy Underwriter
T: +44 20 3320 8962
M: +44 7824 406 620
hannah.day@ctplc.com

Tom Williams

Offshore Underwriting Assistant
T: +44 20 3320 8965
tom.williams@ctplc.com

Celia Harrison

Offshore Underwriting Assistant
T: +44 20 3320 2205
celia.harrison@ctplc.com

Brendan Pir

Offshore Underwriting Assistant
T: +44 20 3320 8895
brendan.pir@ctplc.com

Fatima Seleman

Offshore Underwriting Assistant
T: +44 20 3320 8844
fatima.seleman@ctplc.com

Claims

Fabien Lerede

Offshore Syndicate Claims Director
T: +44 20 3320 8898
M: +44 7825 247770
fabien.lerede@ctplc.com

Ursula O'Donnell

Offshore Claims Director
T: +44 20 3320 8813
M: +44 7824 590271
ursula.odonnell@ctplc.com

Sharmini Murugason

Regional Offshore Claims Director
T: +65 6506 2867
M: +65 9648 6950
sharmini.murugason@ctplc.com

Rupert Banks

Offshore Claims Executive
T: +44 20 3320 8887
M: +44 7795 336898
rupert.banks@ctplc.com

Claire Boddy

Offshore Claims Executive
T: +44 20 3320 8994
M: +44 7766 991876
claire.boddy@ctplc.com

Sarah Wallace

Offshore Claims Executive
T: +44 20 3320 8900
M: +44 7768 888 556
sarah.wallace@ctplc.com

Support

Victoria Jenkins

Team Assistant
T: +44 20 3320 8964
victoria.jenkins@ctplc.com

Derek Steer

Senior Credit Controller
T: +44 20 3320 2287
derek.steer@ctplc.com

Web alerts

The Standard Club issues a variety of publications and web alerts on topical issues and club updates. Keep up to date by visiting the News section on our website www.standard-club.com

This Standard Bulletin is published on behalf of The Standard Club Ltd by the managers' London agents:

Charles Taylor & Co. Limited
Standard House, 12–13 Essex Street, London, WC2R 3AA, UK
Registered in England No. 2561548

Telephone: +44 20 3320 8888 Emergency mobile: +44 7932 113573
Email: pandi.london@ctplc.com Website: www.standard-club.com

Follow us on Twitter @StandardPandi

The information and commentary herein are not intended to amount to legal or technical advice to any person in general or about a specific case. Every effort is made to make them accurate and up to date. However, no responsibility is assumed for their accuracy nor for the views or opinions expressed, nor for any consequence of or reliance on them. You are advised to seek specific legal or technical advice from your usual advisers about any specific matter.

The Standard Club Ltd is regulated by the Bermuda Monetary Authority.

Charles Taylor & Co. Limited is an appointed representative of Charles Taylor Services Limited, which is authorised and regulated by the Financial Conduct Authority.

**Charles
Taylor**