



BIMCO LAUNCHES DECOMMISSIONING CONTRACT “DISMANTLECON”

On 23 September 2019 BIMCO published its first standard form offshore marine services decommissioning agreement “DISMANTLECON”. DISMANTLECON is a contract for the dismantling and delivery of offshore structures to an agreed place of delivery.

BIMCO hopes that the form will encourage a degree of standardisation and consequent cost savings in a market anticipated by UK Oil & Gas to be worth £15.3 billion from 2018 to 2027 in the UK alone¹.

¹ "Decommissioning Insight 2018" (2018) Oil & Gas UK (<https://oilandgasuk.cld.bz/Decommissioning-Insight-2018>).

The Market

There are more than 250 offshore installations, 250 subsea production systems, 3000 pipelines and approximately 5000 wells offshore on the UK continental shelf all of which will eventually need to be decommissioned². Within the next decade this market is expected to become the largest decommissioning market globally³ (with the 12 largest decommissioning markets expected to be worth US\$82 billion over the next 10 years⁴).

The Petroleum Act 1998 governs decommissioning in the UK. In keeping with the 1992 OSPAR Convention⁵, decommissioning in the UK generally requires both the dismantling and removal of offshore structures from the marine environment. The legislation provides that the industry itself (usually the existing operator) is responsible for the costs and removal of offshore structures. The existing operator will normally subcontract these services to specialists to fulfil their obligations under their licences and the Act.

DISMANTLECON

DISMANTLECON has been drafted as a flexible agreement for significant and/or multiple stages of decommissioning work offshore, as well as for more defined removal operations. Unamended, it does not deal with plugging and abandonment work or the disposal of the dismantled structures, which would normally be dealt with by separate agreements or by significant additional language.

The extent and scope of decommissioning work on offshore structures is often difficult to determine at the outset. Accordingly, DISMANTLECON provides for an extensive variation regime which allows for price and time adjustment on an ongoing basis. The parties must carefully negotiate and define "Technical Information", "Rely upon Information" and "Assumptions" as these determine how and when variation orders may be triggered.

A further important principle adopted in DISMANTLECON is an offshore "knock-for-knock" liability and indemnity regime, whereby each party takes responsibility for loss, damage or injury to their people and property in certain situations regardless of cause.

Finally, DISMANTLECON uses adjudication as a form of fast track interim dispute resolution with the intention of avoiding delay and reducing costs.

Impact

DISMANTLECON (like LOGIC's⁶ General Conditions of Contract for Offshore Decommissioning) aims to transition the offshore decommissioning industry from bespoke contracts to standardised agreements. Through standardisation, BIMCO and LOGIC hope that these agreements will reduce costs and time spent on negotiating decommissioning contracts. HFW will examine different aspects of DISMANTLECON in a series of articles over the next few months.

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2 "Decommissioning Strategy" (2016), UK Oil and Gas Authority (https://www.ogauthority.co.uk/media/1020/oga_decomm_strategy.pdf).

3 "Strengthening the UK's Offshore Oil and Gas Decommissioning Industry: Call for Evidence" (2019) UK Department for Business, Energy & Industrial Strategy (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785544/strengthening-uk-offshore-oil-gas-decommissioning-industry-cfe.pdf).

4 "Upstream Decommissioning: where's next and who pays?", Wood Mackenzie, July 2018 as quoted in "Strengthening the UK's Offshore Oil and Gas Decommissioning Industry: Call for Evidence" (see above).

5 Convention for the Protection of the Marine Environment of the North East Atlantic.

6 LOGIC (Leading Oil and Gas Industry Competitiveness) is a not-for-profit subsidiary of Oil & Gas UK which, inter alia, publishes a number of standard contracts for use throughout the oil and gas industry.

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