

Lease extensions, leasing plans, tax disputes among diverse governmental efforts at IADC

BRIAN PETTY, IADC senior vice president–government affairs, has led IADC’s government affairs battles on a diverse range of issues over the past year, from OCS leases to taxation to EU’s terror fight to EPA exemptions. Here are some of the highlights.

FIGHTING LEASE EXTENSIONS

A major effort IADC took on this year with the US Minerals Management Service was working to toughen up the agency’s Notice to Lessees (NTL) regarding lease suspensions and extensions in the Gulf of Mexico.



Brian Petty

Early this year, the MMS Gulf of Mexico regional office circulated an NTL allowing operators who find themselves without rigs to initiate drilling operations on expiring offshore leases to apply for a lease extension.

IADC subsequently voiced its concern to MMS, cautioning the agency on its assessment of operators’ extension requests. It emphasized that in any review of such requests, operators should be held to a rigorous burden of proof that they have exhausted all avenues to procure a rig.

After considering IADC’s concerns, MMS significantly altered its NTL. In the final document released in February, MMS included a more rigorous test for operator requests for lease extensions/suspensions and stipulated that such requests must demonstrate an absolute lack of rig options.

Further, where a rig under contract isn’t delivered in time to conform to the primary terms of an offshore lease, the operator must produce evidence of an executed contract and full details explaining the delivery delay. Where an operator seeks a lease extension or suspension due to a total “lack of availability,” it must provide evidence showing that it began a rig search well before the lease expiration and that it engaged in “timely attempts” to secure a rig.

IADC also took on similar efforts in the United Kingdom. In May, the association advised the UK Department of Trade and Industry’s Oil and Gas Directorate that IADC members have sufficient capacity to

meet the needs of operators who are under deadline to license drilling requirements.

Furthermore, operators must take responsibility for meeting the terms of their license agreements. If rigs can’t be secured due to operators’ lack of planning or financial resources, licenses should be re-offered to operators who are able to perform.

OCS LEASING PLAN

IADC and the National Ocean Industries Association (NOIA) jointly applauded MMS’ proposed 2007-12 OCS leasing plan. Both associations expressed support for including more of the Sale 181 area in the eastern Gulf of Mexico, which had been restricted to a narrow band in the current 5-year plan. This position was reinforced in separate testimony offered on behalf of the offshore industry, including IADC, by **Tim Parker of Dominion Exploration & Production** before the US Senate Committee on Energy and Natural Resources. The comment to the MMS record also expressed support for more OCS leasing in Alaska but faulted the agency for deleting from consideration most of the Atlantic Planning Areas and the eastern Gulf of Mexico adjacent to Florida.

ULTRA-DEEP DRILLING

Despite IADC’s objections, MMS in January made effective a new rule relaxing drilling requirements for “ultra-deep” wells. IADC objected to the change, but MMS responded that the rule will result in “no more than 10 requests for suspensions” and will “affect less than 0.23% of leases in the eligible areas.”

TAX WORKSHOP

Recognizing a multitude of tax-related issues arising in the European region and around the world, IADC held an European tax workshop in November 2005 of member company tax specialists. Tax professionals were brought together to discuss issues like bringing rigs in and out of markets such as the Netherlands, Norway, UK and the Caspian area. Broader subjects — such as transfer pricing and deemed profit schemes in the developing world — also were discussed.

INDIAN SERVICE TAX

A major tax-related effort over the past year has been taking place in India. After the 2004 election of a new Indian government, the country’s Service Tax was

expanded to include various categories of extractive and mining services. Drilling contractors believe that the law doesn’t and shouldn’t include drilling services and that, if it does, all offshore operators in India are contractually obligated to cover the service tax.

In April 2006, IADC won the support of India’s new petroleum minister **Murti Deora**. Mr Deora publicly stated his backing of IADC’s position that the government’s service tax shouldn’t include many — if any — oilfield services, particularly “survey and exploration” services.

IADC has turned to the courts for a resolution. The Mumbai High Court has accepted IADC’s writ of petition, meaning that it accepts responsibility for settling the dispute. As of press time, a decision was still pending.

INDONESIAN TAX RULINGS

Another tax dispute has been taking place further east in Indonesia. In May, a delegation of IADC member companies, headed by **Brian Hefty of GlobalSantaFe**, met in Jakarta with **Petrus Tambunan**, Indonesian director of income tax, to discuss problems associated with withholding tax exemption rulings for foreign drilling companies.

The Indonesian government had taken the position that such rulings aren’t necessary because the withholding tax law doesn’t apply to them. However, operators disagreed, leading to delays in reimbursement of drilling companies for taxes paid through the operators.

IADC also objected to Indonesian tax authorities’s indication that widely understood tax invoicing processes will no longer be accepted. That would result in significant additional cash outlays for drilling companies.

In addition to **GlobalSantaFe**, representatives of **Diamond Offshore**, **ENSCO**, **Nabors**, **Noble** and **Transocean** participated in the meeting.

EQUATORIAL GUINEA

In Equatorial Guinea, IADC has requested the US ambassador’s assistance in establishing a deemed profits tax system. The association’s previous contact with the EG government went unanswered. IADC has urged the US embassy’s commercial officer to address the matter.

AUSTRALIAN LEVIES

In late 2004, IADC met with Australia's Department of Industry Tourism and Resources (DITR) to express concerns with the industry-charging scheme to fund the National Offshore Petroleum Safety Authority (NOPSA). The IADC Australasia Chapter asserted that producers should pick up a much larger share of the levies because they derive the greatest value from offshore oil and gas resources. At the time, DITR Minister **Ian Macfarlane** made a promise to review the levies in 1 year.

That promised review has been carried out – but ended with DITR concluding that it was too early for any re-allocation. Another review will be made in 2 years, the government said.

The review did acknowledge that MODUs don't contain hydrocarbons and therefore are less risky. However, it also noted that MODUs carry their own hazardous activities. The government decided there is currently insufficient data to judge the appropriateness of current facility ratings.

EU 'GREEN PAPER'

IADC, in cooperation with the International Association of Oil and Gas Producers (OGP), responded to the European Commission's "Green Paper on a European Strategy for Sustainable, Competitive and Secure Energy."

The initiative was launched in 2004 as directed by the European Council to fight terrorism. IADC was part of a Security Task Force organized to meet the commission's challenge.

The green paper expands the definition of "hazards" beyond terrorism to include crises such as natural disasters, but OGP and IADC have been working to persuade the commission to avoid an "all hazards" approach.

WORKING TIME DIRECTIVE

Carolyn Cosgrove of **Maersk Contractors** participated for IADC in a meeting held in late April in Aberdeen to prepare for court action related to the EU Working Time Directive.

Offshore industry trades and their legal counselors discussed cases brought in Scottish tribunals by union members to challenge the industry's interpretation and application of the directive on the UK Continental Shelf.

The unions maintain that the law provides an extra 4 weeks paid leave than currently provided. IADC believe current offshore industry rota cycles already satisfy the law. The matter is pending for consideration.

STORMWATER EXEMPTION

In June, the US Environmental Protection Agency released a final rule interpreting changes in the Clean Water Act (CWA) reflecting the interpretation advocated by IADC. Under the final rule, stormwater discharges require National Pollutant Discharge Elimination System coverage only if the discharges result in the release of a reportable quantity of oil or hazardous substances or contribute pollutants and to a violation of a water quality standard.

The publication of this rule capped the industry's long-running efforts to clarify the provisions passed in the 1987 CWA Amendments. However, it's likely that the rule will be challenged, and drilling contractors and producers are encouraged to remain involved in further developments.

US TRADE COMMITTEE

In April, Mr Petty was elected to a 4-year term as chairman of the US Industry Advisory Committee for Automotive Equipment and Capital Goods.

The committee advises the US government on trade policy, including bilateral and multilateral trade agreements. Other members of the committee include representatives of **Cooper Cameron**, **General Motors** and **Caterpillar**. ♠

IADC keeps watch over land operations, HSE performance

IT'S BEEN A busy year for onshore drilling contractors, as has IADC been in keeping on top of rules and regulations that impact land operations. **Joe Hurt**, IADC director—land operations, has provided leadership for this effort as well as staff support to the IADC Rig Moving Committee and Health, Safety and Environment Committee.

RIG MOVING COMMITTEE

IADC's Rig Moving Committee is continuing to develop guidelines for winch trucks and rigging equipment by sharing design information of rig-up trucks and the type of rigging, such as winches and gin-poles, rigging and block selection as well as equipment inspection, driver and swamper competencies.



Joe Hurt

Committee members are reviewing topics such as changes to the new rules on load securement, driver's qualifications and background checks. They're also continuing to further clarify the Hours-of-Service rule issued by the US Department of Transportation's Federal Motor Carrier Safety Administration.

Among other issues monitored are:

- Streamlining the process of approval for heavy-hauler permits in Oklahoma. The Oklahoma Department of Transportation now offers an online option along with additional personnel to man telephones to improve the permit process.
- Clarifying the effect of a National Highway Traffic Safety Administration (NHTSA) rule to reduce the required stopping distance for truck tractors. Brake manufacturers were invited to a meeting to educate IADC members on how this rule would work and how it might affect operations.
- The new American National Standards Institute (ANSI) Standard of Vehicle Safety that affected IADC member companies that own or lease vehicles for company use was tracked and reviewed.

HSE COMMITTEE

The IADC HSE Committee continues to monitor activities at the Occupational Safety and Health Administration (OSHA). The committee has completed a review of and submitted comments on the OSHA Rig Inspection Sheet. The sheet contains citations referencing industry standards as well as OSHA regulations.

The committee has also actively participated in the EPA's new Spill Prevention Control and Countermeasure Regulations and the National Pollution Discharge Elimination Permit regulations. The committees have tracked the road engine requirements for 2007 and the new low/ultra low sulfur diesel labeling rules for dispensing units.

IADC also continues to publish the widely used Safety Alerts. To date, nearly 300 alerts have been published to help members worldwide improve safety records.

SAFETY STATISTICS

Each year the HSE Committee produces the Annual Report of Occupational Incidents. The report analyzes incident data provided by participating drilling contractors to produce the most complete and accurate incident data report for the oil and gas well drilling industry.

This year, the HSE Committee produced the Annual Report of Occupational Incidents by analyzing incident data provided by 105 participating drilling contractors. That number represents approximately 78% of the worldwide oil and gas well drilling rig fleet.

The 2005 report showed that the industry reached a record-low Lost Time Incidence (LTI) rate despite a 10% increase in drilling manhours in the year. The LTI rate dropped from 0.63 in 2004 to 0.60 in 2005, a 5% reduction, even though total reported manhours increased from 336.12 million to 369.56 million. A total of 1,077 LTIs were reported.

The full report has been sent to all participants in the Accident Statistics Program (ASP), and nonparticipants can purchase it from the IADC publications department by calling +1 713 292 1945, ext 215. ♠