

MCE Deepwater Development 2019 Enduring Investments in Deep-Water Oil and Gas

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Introduction

- Traditional relationships and structures
- Moving markets and changing circumstances
- Customary cycles
- Energy transition
- New business models
- A lawyer's view

Current state and outlook

- OGUK Business Outlook 2019
- IEA World Energy Outlook 2018
- Circumstances of the last five years
- Commodity pricing
- Drilling activity and rig market
- Services and supply chain
- Decommissioning

“Keep your eyes wide open before marriage, half shut afterwards”

Benjamin Franklin

Moving markets and static contracts

- English law or other common law
- Text before context
- Changes of circumstances
- Contract modification
- Contract termination

“The power of the lawyer is in the uncertainty of the law”

Jeremy Bentham

Changes of circumstances: changes of contracts?

- Courts interpret and apply, not make or amend
- Certainty and binding nature
- Presentiation and clairvoyance
- Extent of obligation
- Good faith
- Relational theory

“Judicial precedent means the pathological case covers the healthy case too”

Ian Macneil

Examples and cases

- ❑ HPOR v Dryships Inc 2018
- ❑ Transocean v ENI 2018
- ❑ ONGC v Reliance Industries 2018
- ❑ Seadrill v Tullow 2018
- ❑ Common disputes:
 - Conversion, refurbishing, upgrade – variation orders
 - Time, quality and cost
 - Termination
- ❑ Dispute resolution arrangements

“You cannot shake hands with a clenched fist”

Indira Gandhi

Approach to disputes

- Hardship and force majeure under contract
- Re-negotiate, continue or terminate?
- Resolution of dispute, or re-making of relationship?
- Relationship analogies
- Relational contracts and English law

Basis for investment

- ❑ Nature of investment
- ❑ Attraction of capital
- ❑ Contractual basis
- ❑ Rights of investors
- ❑ Changing circumstances

Summary and conclusion

- Nature of business
- Customary cycles and energy transition
- Moving markets and static contracts
- Examples and cases
- Separation and divorce, or a return to courtship?

Questions?

Thank you

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