

Government Affairs monitors worldwide legislation

IADC'S GOVERNMENT AFFAIRS

division is headed by Senior Vice President **Brian T Petty** in Washington, DC, who monitors global legislation that affects the contract drilling industry. He devises strategies to ensure that IADC's membership is heard regarding governmental initiatives and issues.



Brian T Petty

AUSTRALIAN NOPSAs

After two years in development, the new Australian federal National Offshore Petroleum Safety Authority (NOPSAs) and its industry-funded annual budget were announced by the government for launch 1 Jan 2005. IADC expressed opposition to drilling contractors' share of the "cost recovery" scheme for the total NOPSAs budget.

In a meeting in Washington, DC, with **John Hartwell**, Head of Division in charge of the NOPSAs implementation process, Mr Petty pointed out that IADC was not sufficiently involved in the consultation process leading to the announcement of the funding scheme, and that the result is unfair to drilling contractors who will bear a disproportionate cost burden relative to the oil companies operating offshore Australia.

After returning to Australia, Mr Hartwell formally replied to Mr Petty, acknowledging his concern that IADC members' interests may not have been fully met. Mr Hartwell said the government consulted closely with the Australian Petroleum Production and Exploration Association (APPEA), of which rig owners are associate members, regarding the funding scheme.

Mr Hartwell also wrote, "I have asked my staff to ensure effective consultation is established and maintained directly with IADC as NOPSAs moves forward."

Mr Hartwell also said that the cost recovery system will be reviewed after

12 months of operation. Mr Hartwell wrote, "We believe that most if not all of the additional costs to rig owners will be passed on to the oil companies and this point was acknowledged in a meeting with industry."

Mr Petty replied that IADC appreciates the steps to ensure an active and independent dialogue in the administration of NOPSAs and the review of its cost recovery system after 12 months of operation.

"Naturally, we regret that modifications to the charging scheme won't be made before then, and we remain convinced the burdens are inequitable as between drilling contractors and the oil companies," Mr Petty replied.

"Finally, I'm compelled to repeat that IADC members won't be able to simply 'pass through' their allocated portion of the total NOPSAs levy, despite what has been claimed or wished for," Mr Petty continued. "Certainly no member or representative of the drilling industry offered that view in any meeting with the NOPSAs implementation team.

"However," Mr Petty concluded, "we welcome the opportunity to make our case more robustly when the formal review of the cost recovery system commences."

US OILFIELD LABOR

Key Energy Services Vice President-Communications **Anthony Stamato** testified before the US House of Representatives Resources Committee's Subcommittee on Energy and Mineral Resources on behalf of IADC on "Aging of the Energy and Minerals Workforce: A Crisis in the Making?" He pointed out this growing concern among the entire onshore US drilling and well servicing industries.

Mr Stamato noted that the workforce, particularly mid- and senior-level managers, is "graying" and that the onshore contract drilling industry is expected to lose many experienced managers to retirement over the next 10 years.

He commended the US Department of Labor for the positive steps taken through its workforce grant program to train oilfield workers, with programs under way at San Juan Community Col-

lege in New Mexico, Midland Community College in Texas and High Plains Technology Center in Woodward, Oklahoma.

The DOL provided grant funds to the schools ranging from \$1-\$3 million each. Mr Stamato proposed expanding the nature and scope of the program because too few institutions have taken advantage of it, and to put the program on an "evergreen" federal funding basis.

EU WORKING TIME DIRECTIVE

The European Commission is conducting a reexamination of the EU Working Time Directive, which came on the heels of a report focusing on the so-called "opt-out", which allows individuals to waive their rights under the Directive, and the definition and calculation of working time. As a result of European Court of Justice rulings, more Member States are turning to the use of opt-out.

The purpose of the consultation is to analyze both the implementation of the opt-out and derogations to the period over which working time is calculated, and impact of recent case law concerning the definition of working time and the qualification of time spent "on call", i.e., whether it should be "working time" or "rest period". In addition, the consultation seeks suggestions on possible future modification of the Directive.

In 1993 the UK negotiated an opt-out that allowed it not to apply the limit to working hours under certain conditions such as prior agreement of the individual, no discrimination for refusing to opt out, and complete records required to be kept of working hours for those individuals opting out.

IADC provided comments on the review jointly with UKOOA, COTA, IMCA, OCA and WSCA to the UK Department of Trade and Industry, which commented formally to the Commission.

DTI and a special committee of the UK House of Lords generally supported the offshore industry's contention that it is compliant with the Directive in its overall hours of work, its shift patterns, the provision of rest breaks, in annual leave and in the provision of health checks.

VIETNAM CONTRACTOR TAX

Following an appeal by IADC to the Vietnamese Government, its Ministry of Finance deferred plans to raise taxes on foreign drilling contractors who conduct business or generate income in the country. The Ministry had been expected to finalize a circular increasing taxes on contractors with effect from 1 July 2004.

Foreign contractors in Vietnam currently pay tax only on income generated from business activities performed in Vietnam. Versions of the expected changes called for higher VAT rates for many goods and services provided under leasing or procurement contracts, with contractors potentially facing a tax burden about 40 to 50 percent greater than current levels.

Although delayed, the government's plans aren't necessarily scrapped. The Ministry will again consider tax changes for contractors at the end of this year. A delegation of Vietnamese government and industry officials, led by Deputy Minister of Planning and Investment Nguyen Bich Dat, discussed the considerable potential of the country's OCS and new opportunities there for western drilling and production companies during IADC's Annual Meeting last year in Houston.

LAW OF THE SEA TREATY

The Law of the Sea Treaty pending before the US Senate encountered significant opposition. The offshore E&P industry has long supported ratification of the treaty and IADC enjoys observer status on the International Seabed Authority created by the treaty.

In October 2003, Sen **Richard Lugar**, chairman of the Senate Foreign Relations Committee, held hearings at which IADC and allied trades testified. It was believed then that the treaty would be easily ratified in the full Senate.

However, ratification hasn't materialized due to opposition by Oklahoma Sen **Jim Inhofe**, chairman of the Senate Environment and Public Works Committee. The Senate Armed Services Committee held a hearing where the US Navy argued in favor of the treaty, asserting its benefits for national security.

At Sen Lugar's request last April, IADC wrote the Senate leadership to bolster his position regarding offshore E&P. IADC made the following arguments in the letter:

"If ratified, the Convention codifies the right of the United States to explore and develop potentially large new reserves of oil and natural gas and, more importantly, offers a non-adversarial process for resolving disputes and conflicts over the precise limits of the continental shelf where its margin extends beyond 200 miles."

The Convention's rules by which coastal nations may assert jurisdiction over the development of natural resources beyond 200 miles are particularly important to the US, which has broad continental shelf margins.

US OFFROAD EXCISE TAX

The US Senate developed legislation to limit the Internal Revenue Service's efforts to redefine "mobile machinery", including self-propelled drilling and well servicing rigs. The Senate's approach sets an annual 5,000 miles per unit "cap" on what can be considered tax exempt from fuel excise taxes. IADC's analysis indicates that most self-propelled drilling rigs would not exceed that limit.

The key to the legislation restores the well-settled IRS formula for determining which machinery is used primarily off road and exempt from federal fuel and equipment excise taxes. The legislation is part of a larger and controversial highway bill, which may be vetoed by the President. If so, it's likely the bill won't be revived until the next Congress.

US LNG ROUTES

In response to concerns expressed by IADC and other trade groups, the US Minerals Management Service (MMS) announced it will begin posting Gulf of Mexico maps on the agency website to show the impact of proposed LNG facilities and shipping lanes on existing or future lease tracts.

The maps will enable companies to alert MMS and others of potential conflicts before applications for the LNG facilities are approved.

The maps will be based upon requests made by LNG project applicants and will

be available in time for companies to assess whether LNG facility permits impair future lease tracts of interest, or to existing leases.

With regard to LNG shipping fairways, MMS and the US Coast Guard have indicated plans to use "recommended tanker routes" for future LNG projects to guide tankers away from platforms.

OCEAN COMMISSION REPORT

The US Commission on Ocean Policy released its long-awaited Report, presenting it to the governors of all 50 states and other interested parties. Highlights of the Report include key recommendations with implications for offshore E&P.

The Commission recommends redirecting \$1 billion annually from offshore oil and gas revenues, which currently flow into the federal treasury, to an "ocean policy trust fund" to pay for coastal revitalization and conservation of natural resources in coastal states.

The Commission recommends that a proportionately larger share go to states that facilitate OCS energy production.

The Commission finds the considerable management uncertainties arising from activities that take place in federal waters, including oil and gas development, lead to needless confusion, conflict, lost opportunities, and environmental threats.

To this end, a proposed coordinated offshore management regime would address the impacts of multiple activities on a particular location, or on each other.

Of particular significance, the Commission's report dedicates an entire chapter to offshore energy development pointing to industry's economic contributions and solid environmental performance.

The report also mentions problems with the Coastal Zone Management Act and offshore leasing, but stops short of making specific recommendations for potential legislative fixes.

Finally, the Commission lists among its critical recommended actions US Senate ratification of the United Nations Convention on the Law of the Sea, an IADC priority. ■