

IADC monitors legislative initiatives and issues that affect its members worldwide

WORLDWIDE, IADC'S Government Affairs Department fights the good fight for sensible regulation at the national and trans-national levels. Current issues range from taxes in India to training for US oilfield workers. (For European government affairs issues, see separate article on p 20). These global efforts are headed by **Brian T Petty**, Senior Vice President-Government Affairs, based in Washington.



Brian T Petty

INDIA SERVICE TAX

Members of IADC operating in India have been complaining that the scope of the Service Tax in India is being expanded year after year, and two new categories, "Survey and exploration of minerals" and "Site formation and clearance, excavation and earthmoving and demolition", have been brought under the Service Tax effective from 10 September 2004 and 15 June 2005 respectively.

The Central Board of Customs and Excise has clarified that the activity of drilling is covered within the scope of "Survey and exploration of minerals" under the taxable category of "Site formation and clearance, excavation and earthmoving and demolition" which specifically refers to drilling activity.

IADC members have also been advised by chartered accountants that the activities they perform for ONGC incur service tax under the above-referenced categories, according to the specific activities directed by ONGC.

The agreements/contracts entered into between ONGC and drilling contractors stipulate that service tax, when applicable, will be separately reimbursed by ONGC.

The dilemma is that there is some dispute with ONGC on what is deemed "applicable" under their drilling contract terms. Accordingly, Mr Petty wrote ONGC chairman **Subir Raha** to clarify ONGC's position so that members can take

appropriate action and raise invoices for service tax as per the terms of contract.

VENEZUELA

Mr Petty met with the Venezuelan Minister Counselor for Energy Affairs posted to Washington, **Mr Fadi Kabboul**, to review a number of concerns expressed by IADC members operating in Venezuela. They involve inconsistent contract terms from field-to-field, the application of inflation and currency fluctuation provisions in drilling contracts, and the collection of value added tax.

Mr Petty emphasized that IADC seeks as much consistency as possible in drilling contracts all over the world, certainly in terms of risk apportionment. IADC concedes there may be certain technical and operating differences within different markets, but above all, the same substantive contract basis should apply in all cases.

Mr Kabboul carried IADC's message back to the PDVSA Board of Directors and Drilling Division in Caracas. He's a former engineer with PDVSA and enjoys contacts at its highest managerial levels. IADC will continue to pursue these issues with the Embassy and encourages drilling contractors who encounter problems in Venezuela to bring them to the attention of IADC's Washington office.

EQUATORIAL GUINEA TAXATION

IADC sent a letter to the Minister of Mines and Energy of Equatorial Guinea asking him to restore a consistent taxing regime first agreed in 1997 for drilling contractors and related providers of oilfield services in the country.

IADC has established "deemed profit" arrangements with countries throughout the developing world that ensure certainty and consistency in the administration and collection of taxes from IADC members in those countries.

The regime, called "deemed profit taxation", has been implemented in many oil-producing countries. The basic principle of the regime is that it deems a profit on the gross operating revenue of the spe-

cific companies to which the normal corporate tax rate applies.

IADC requested a meeting with representatives of the government to resolve ambiguities in that country's current tax regime as applied to its drilling contractor and affiliated oilfield services members.

US OILFIELD LABOR

An item in the pending energy bill would promote federal funding of oilfield worker training. IADC was approached in early 2001 by the newly installed Bush appointees at the US Department of Labor about training funds available that heretofore had been directed to retraining "Rust Belt" workers.

Subsequently, \$8 million of the funds were redirected to oilfield training needs. Training programs have been established at two colleges and a technical institute.

IADC supports a provision in the energy bill by Congressman **Mike Conaway** of Midland that addresses the oilfield worker shortages, and states, in part, "To address this shortage, the Secretary of Energy, in consultation with the Secretary of Labor, shall evaluate both the short term and longer term availability of skilled workers to meet the energy security requirements of the United States, addressing the availability of skilled workers at both entry level and at more senior levels in the oil, gas and mineral industries.

"Within 12 months of the date of enactment of this Act, the Secretary of Energy, the Secretary of Labor and the Secretary of the Interior shall submit to Congress a report with recommendations as appropriate to meet the future labor requirements for the domestic extraction industries."

It is hoped that this provision will serve to expand the program by emphasizing its contribution to addressing chronic US oilfield labor shortages.

WORLD BANK PROPOSAL

The presidents of 11 major business

trade associations, including IADC president **Lee Hunt**, sent a letter to the new president of the World Bank, **Paul Wolfowitz**, urging closer scrutiny and examination of a pending internal World Bank proposal entitled "Increasing the Use of Country Systems in Procurement."

The business association presidents noted that the proposal would be a counterproductive policy reversal, shifting the current World Bank policy of promoting international standards for procurement, including guidelines and standard bidding documents for use by borrowing countries, to one that is under unenforceable criteria and no meaningful central oversight or effective dispute settlement mechanism.

Second, the proposal would lead to less transparency, runs counter to anti-corruption initiatives and would increase the costs of doing business while decreasing competition.

Third, the pending proposal runs contrary to cooperation with the World Trade Organization (WTO) to promote good governance and fair procurement.

The 11 business association leaders argued that the Bank should continue to promote best practices and model procurement programs.

Finally, they urged the Bank to suspend adoption of the proposal and engage in meaningful consultations with business stakeholders before proceeding further.

TAX EXEMPTION

In a significant victory for IADC land drilling members and other users of "mobile machinery" such as self-propelled land rigs, off road equipment retained its tax-exempt status.

The IRS had threatened to reclassify such equipment as highway vehicles subject to a variety of federal excise taxes normally applied to cars and trucks.

This move was motivated because of the proliferation of light weight utility trucks used for telephone and electric line repairs, which traveled substantially on public highways.

In response the IRS declared it would remove the tax exemption for all off road machinery to raise revenue.

Over the past two years, IADC, as part of the Mobile Machinery Coalition, sought federal legislation to overrule the IRS initiative. It was hoped the Highway Bill

would be the vehicle for that but the bill failed to pass Congress in 2004.

The Coalition changed course and attached its provision to HR 4520, the JOBS Bill, which was signed by President Bush late last November.

STORM WATER PERMITTING

IADC joined a broad industry coalition led by IPAA in presenting comments before an Environmental Protection Agency (EPA) public hearing in Dallas to voice strong objections to agency plans for proposed extension of the onshore storm water permit coverage to small oil and gas construction activities.

Such rules would exceed EPA's legal authority under the Clean Water Act, which restricts EPA from requiring permits for oil and gas construction activities regardless of size unless the discharge from a site is contaminated.

The E&P trades pointed to industry-led efforts addressing storm water concerns through a flexible management process as an alternative to EPA's rigid permitting regime.

MMS USER FEES

In a joint letter to the **US Minerals Management Service (MMS)**, IADC joined NOIA and affiliated trades in submitting comments concerning an MMS "cost recovery" rulemaking.

While the industry recognizes MMS' need to ensure funds for its activities, it does not believe the agency has the legal authority and policy guidance to require the new fees or that the fees are necessary.

Existing leases don't contain provisions for the new fees, and no regulations existed at the time of lease issuance that allowed imposition of these fees.

Lessees have already paid substantial amounts, often millions of dollars, to obtain leases and substantial annual rental payments in order to maintain the lease.

Industry has asked that MMS and the Office of Management and Budget consult with the Small Business Administration and reconsider particularly the proposed rule's impact on small lessees.

OFFSHORE TECHNOLOGY

On behalf of IADC and other E&P trades, **Charles Davidson**, CEO of **Noble Ener-**

gy and vice chairman of the Domestic Petroleum Council, gave testimony before the Senate Committee on Energy and Natural Resources on the "blanket moratoria" that have restricted access for decades to energy development to only 10% of US waters outside of Alaska.

Mr Davidson pointed out that new technologies in use today were not available, perhaps not even imagined, when current moratoria legislation was drafted.

These technologies include, for example, directional drilling and the rapid growth of subsea well completions in both shallow and deepwater production facilities.

Mr Davidson concluded with a comparison of a 1974 Gulf of Mexico natural gas resources estimate of 50 tcf of gas. He noted that as a result of technological advances, the industry has produced 160 tcf since 1974 and estimates are that 232 tcf still remain.

PROTECTING OFFSHORE ASSETS

Mr Petty delivered a plenary address at the annual conference of the Australian Petroleum Production and Exploration Association in Perth last April on the subject of offshore security entitled *Protecting Our Offshore Assets*.

The presentation described the response of US authorities in regard to offshore oil and gas operations after the Sept 11 terrorist attacks and the resulting global interest in securing offshore facilities, particularly in Australia.

In 2004 representatives of the Australian Prime Minister's cabinet visited IADC and US security regulators in Washington to gather information for developing an appropriate system for safeguarding Australian offshore oil and gas assets, particularly on the Northwest Shelf and in the Timor Straits.

The result was the creation of the Joint Offshore Protection Command headed by the Australian Defense Force and Australian Customs, which began 31 March.

OPPOSING DEEPWATER RULE

IADC strongly opposed MMS' proposal to alter the lease terms for existing "ultra-deep" wells. The notice of proposed rule-making recited the usual operator arguments that added "complexity" and costs warrant what is in fact an extension of primary lease terms.

Despite MMS' expression of concern about this significant deviation from

established OCS leasing policy, MMS proposes to accept operators' claims that at the end of the day rest more on selective cost considerations than on technical limits for planning and analysis.

IADC stated in its 200 comment on MMS' proposal for subsalt lease extensions that the MMS should avoid setting a "precedent for other lease suspension requests that are essentially motivated by the financial or strategic priorities of a given lessee."

The text of the proposed rulemaking states boldly that "lessees or operators will not request a suspension unless it is in their financial interest."

The financial interests of an operator are not necessarily consistent with those of the federal government or the offshore contractors who engage in OCS exploration.

Drilling contractors must finance their fleets on the basis of reliable government drilling programs where finite license terms afford the certainty that leases will be drilled, or dropped and re-offered to

operators with the appetite and resources to develop them.

OCS 5-YEAR PLAN

IADC joined six other upstream trade associations in March to urge US Secretary of the Interior Gale Norton to include all areas of the OCS during the initial requests for comments on the upcoming five-year OCS leasing program for 2007-2012.

The associations stressed the important role offshore oil and natural gas development plays in the US and the need for the Bush Administration to begin an open, public process with the broadest possible range of information as it embarks on development of the next five-year plan.

They emphasized that it would not be possible for MMS to comply with the laws if the agency began the process by inhibiting output and removing areas, including those currently under moratoria, from the five-year plan before all stakeholders have the opportunity to comment.

OCEAN NOISE

IADC joined API and six other upstream trade associations in submitting comments on a proposed Environmental Impact Statement (EIS) for consequences to marine life in areas targeted for lease by the US Minerals Management Service (MMS).

Industry is concerned that NMFS could take too broad and lengthy approach to examining the impact of offshore E&P on marine mammals such as whales and other species.

In the letter, the offshore industry stressed the importance of limiting the EIS to "sound science" examination and taking note of past studies that have demonstrated offshore E&P activities have a negligible impact on reproductive and migratory patterns of marine mammals in the Gulf of Mexico.

Industry is concerned that the EIS fails to evaluate the economic and social impacts of any alternative required. ■

12-14 October 2005 Clarion Hotel Stavanger, Norway

IADC Oil and Gas Activities in Environmentally Vulnerable Areas

HOW THE DRILLING INDUSTRY MEETS THE CHALLENGE

IADC is pleased to announce this upcoming conference concerning drilling & production in environmentally sensitive areas, which requires consideration of the ecological balance in addition to the concerns of society. The conference will provide a forum, for all involved, to examine these challenges and demands in greater detail, reviewing technological, political, societal and economical issues to be addressed when entering such areas.

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