



U.K. Fisheries Offshore
Oil and Gas Legacy
Trust Fund Limited
24 Rubislaw Terrace
Aberdeen AB10 1XE
Tel: 01224 646944
Fax: 01224 647058
www.ukfltc.com

Note

Decommissioning Payments to FLTC in respect of a pipeline.

1. Background

The UK Fisheries Offshore Oil and Gas Legacy Trust Fund Limited (FLTC) was formed in 2007 by Oil & Gas UK, the Scottish Fishermen's Federation (SFF) and the National Federation of Fishermen's Organisations (NFFO). The company has charitable status and is responsible for the FishSAFE Information Project which provides safety critical data to fishermen on the location of exploration, production and decommissioned oil and gas assets on the UKCS. This is important for the safety of fishermen, offshore personnel and the environment.

FLTC was setup to provide fishermen in perpetuity with information about oil and gas infrastructure including the legacy assets remaining after decommissioning, therefore providing an effective method of mitigating the long term risk to fishermen for derogated assets. It is intended that FLTC will monitor the condition of certain pipelines after an operator ceases to be under any obligation to monitor.

To fund this primary objective in perpetuity the FLTC founders agreed that contributions expected to be made by operators of installations and pipelines remaining after completion of decommissioning would create a self sustaining Endowment Fund (the Fund) at a level capable of generating revenue to support the objective beyond the duration of oil and gas activities in the UKCS. This will provide stakeholders including DECC with assurance that a mechanism is in place to supply fishermen now and in perpetuity with information about oil and gas assets.

When FLTC was set-up it was anticipated that there would be a transitional period of 6 years from 2007 before the Fund reached the required self-sustaining level and in this period the capital in the fund would not be spent. In fact, because operators have deferred decommissioning the Fund is much less than projected although it will grow as decommissioning projects are brought forward and operators make payments to FLTC in respect of any derogation cases.

2. Scope of Note

This Note addresses whether payments to FLTC in respect of pipelines for which regulatory consent has been obtained allowing them to be left in place after full decommissioning will be calculated by reference to the entire length of a pipeline part of which is exposed or will be restricted to the exposed length.

In section 6 the Note sets out FLTC's expectation of the formula to be applied in calculating such payments.

3. Memorandum of Understanding

On 28 August 2007 OGUK, SFF and NFFO signed a MOU in relation to the formation of FLTC.

The MOU states that it does not and is not intended to create any rights or obligations with respect to any party having directly or indirectly an interest in the MOU.

The MOU provides a formula to be used to calculate the "initial indicative expected contribution levels" to be made "by Operators of installations/ pipelines with remains on the seabed" but before considering the formula it is helpful to refer to the objectives and intended activities of FLTC as set out in the MOU and the Company Plan agreed by FLTC, OGUK, SFF and NFFO when the company was formed. .

3.1 Inter alia, the MOU sets out the objectives of FLTC as follows:

- FLTC has been set up to "offset negative legacy issues associated with oil and gas operations and post – decommissioning seabed residues (in particular concerning the safety of mariners)"
- "The primary object of the Company is to promote and enhance safety by taking steps to reduce the risk of loss of life, and/or injury of, or damage to, person or property by reason of Legacy issues; principally by supporting and promoting, in whatever manner, both existing and future mechanisms to identify and monitor Legacy Issues, existing and potential, and seabed installations on the U.K. Continental Shelf including the collection of data and the communication of the same to mariners on or under water"
- " " Legacy Issues" materials, equipment, plant, machinery or consumables whether attached to the sea bed or not and of whatever nature, remaining after cessation or decommissioning of oil and/or gas drilling and/or exploration and/or production and/or ancillary activities in U.K Waters and arising from, connected with, ancillary to or necessary for those activities or that cessation or decommissioning"

3.2 The MOU also describes the intended activities of FLTC as follows:

- "Provision of long-term Legacy Issue monitoring of decommissioned oil & gas installation sites and to communicate this information for the safety of vessels operating in the vicinity
- This is distinct from any explicit statutory requirement by the DBERR served on the operator/owner at the time of decommissioning programme approval. The Company's activities address the need for long - term monitoring to maintain information as operators/owners leave the U.K. Continental Shelf"

3.3 The MOU has a number of Attachments. Relevant provisions include:

Attachment 1 – Guiding Principles for establishing FLTC

- "1. The primary reason for in (sic) forming this Company is to explicitly address the long term risks to mariners as a result of equipment on the seabed which may constitute a hazard to their business or other operations
The Company is designed to take up the running of existing Oil & GAS UK schemes of seabed database/communications and to manage them into the long- term; extending their application to post- decommissioning /operations phases

- 2. The contributions expected from installation and pipeline operators/owners at the time of completion of the relevant decommissioning should be a sum which when aggregated is expected to create a self- sustaining fund capable of generating the revenue needed to support the primary object of the Company beyond the duration of U.K Continental Shelf oil and gas operations. For simplicity, the respective levels of contribution should be established up-front to set peer expectations for operators/joint ventures leaving post- decommissioning residues from installations and pipelines”.

Attachment 2 - Activities of FLTC in relation to residues from installations and pipelines after decommissioning

Introduction:

- “It is the intention that the Company shall provide seabed monitoring for those installations and pipelines that will be allowed by UK government to remain in whole or in part on the seabed beyond completion of an approved decommissioning programme.
- Support contributions will only be expected from owners of installations and pipelines that are allowed to remain on the seabed beyond completion of an approved decommissioning programme. “

The activities to be carried out by FLTC are stated to include:

- “ seabed monitoring , sub-sea surveys where appropriate to allow the data base to be updated to ensure the Company is effective in providing information on the current status of seabed hazards. This will only be where thought necessary, and will be outside and distinct from any statutory monitoring requirements by BERR served on the operator/owner at the time of decommissioning programme approval. For example, this may become necessary following a series of incidents in a particular area, to investigate the status and nature of the hazard.”
- Monitoring of sites for decay of pipelines
- Monitoring the location of debris/residues which move from the immediate site area”

Attachment 3 – Expected levels of contribution by Operators of installations /pipelines with remains on the seabed:

“It is intended that there should be initial indicative expected contribution levels:

- £3k per kilometre of pipeline with exposed length*

*Pipelines that are trenched or buried, beneath the general surface of the seabed in that area, are not considered to be exposed. It is recognized that such pipelines may become exposed after a period of time. However, the contribution is made on the basis of the conditions at the time of completion of the DBERR required decommissioning programme initial monitoring run.”

“It is therefore intended that, following the building of the fund to a level that generates the revenue to cover annual expenditure (ie when Oil & Gas UK supplementary contributions are no longer required), the Directors will instigate annually an actuarial (or similar) review of the endowment fund. The actuary (or similar) shall take into account historical expenditure, expected expenditure on the

primary object and formally approved secondary objects of the Company and investment returns together with the forward number of structures and pipelines expected to be left and produce proposed expected contributions levels.”

4. FLTC Company Plan

The Company Plan agreed by OGUK, SFF and NFFO when FLTC was formed includes the following:

4.1 “Key considerations:

The initial two installations that have already received DBERR (then DTI) approval for decommissioning programmes with derogation from OSPAR 98/3, are NW Hutton, operated by BP, which will complete between summer 2007 and 2009 (for the purposes of this plan it is anticipated to create the legacy conditions and contribute to the Company in mid 2009) and Frigg MCP01, operated by Total (anticipated to contribute in mid 2010). Appendix 1 shows the extent and currently expected timings of subsequent installations and pipelines. In total there is the potential for up to:

- 9 concrete platforms, between now and 2035
- 31 large steel platforms, between now and 2035
- 5300km of large diameter trunk pipelines

This is the maximum potential for equipment to remain on the seabed under current legislation, if the case is made, but in several cases this will be reduced. Initial cases (next 10 years) have been checked before being included in the plan. However, it is important that this is updated annually.

The Company (and its Members) encourages endowment contributions from all appropriate oil and gas operating companies and adequately manages the variable timing & inevitable delays in funding contributions (that are linked to “the establishment of legacy”, at the end of the decommissioning projects).”

4.2 “Future Plans:

The long-term operational/financial model relies upon securing endowment contributions from all those companies which leave a legacy following the completion of a DBERR approved decommissioning programme and managing funds effectively to ensure secure returns into the long term.”

4.3 “The Activities:

Long-term maintenance of seabed information through monitoring activities

Provision of long-term monitoring services to sites where decommissioning residues remain. This monitoring is beyond the explicit statutory requirement by DBERR served on licensees at the time of decommissioning programme approval; and is needed to address the long-term monitoring to maintain information as operators/owners leave the UK Continental Shelf.

Seabed monitoring and sub-sea surveys would be done where appropriate to allow the database to be updated to ensure the Company is effective in providing information on the current status of seabed hazards. This will only be where thought necessary, and will be outside and distinct from any statutory monitoring requirements by BERR served on the operator/owner at the time of decommissioning programme approval eg this may become necessary following a series of claims in

a particular area, to investigate the status and nature of the hazard. In the forward funding plan it has been assumed that this would only start 10 years after the decommissioning.”

“Specific monitoring requirements for the different sites might include for:

Pipelines:

- o Monitoring of sites for decay of pipelines
- o Monitoring the location of debris/residues which move from the immediate site area”

4.4 Operational Model and Long – Term Financial Forecasts

In 2007 OGUK calculated potential payments to FLTC for decommissioned pipelines which remained in place.

The calculation included the offshore facilities detailed in para 4.1. It assumed that all 5,300 kilometres of pipelines with diameter greater than 25 inches remained in place and applied £3,000per kilometre to the entire length of the pipeline.

At that time it was projected that approximately 38% of the total decommissioning payments to be made to FLTC by operators would be in respect of pipelines with the balance referable to platforms.

After developing those projections, and as reflected in the MOU, OGUK, SFF and NFFO agreed that a payment for a pipeline would only apply to a pipeline which has an exposed length “at the time of completion of the DBERR required initial monitoring run.” Accordingly only those pipelines with a section or sections which are exposed are now expected to result in a payment to FLTC.

5. DECC and DEC Guidance Notes

5.1 Since the formation of FLTC DECC has provided the services of an observer who attends meetings of the FLTC Board.

DECC support the formation of FLTC and wish to see the Fund reach a level where it can generate the income required to finance the activities to achieve FLTC’s primary objective.

5.2 DECC has published Guidance Notes for industry on the decommissioning of offshore installations and pipelines under the Petroleum Act 1998. The Guidance includes sections on pipeline decommissioning and recognises the potential risks to fishermen caused by legacy assets.

The Guidance provides that pipelines which are adequately buried or trenched or are expected to self bury within a reasonable time and to remain so may be candidates for in- situ decommissioning. However, the Guidance also states that in-situ decommissioning may be permitted for pipelines which are not trenched or buried if the comparative assessment to be carried out shows that in-situ decommissioning is the preferred option. The Guidance cites trunk lines as an example where this may be permitted.

Section 10.7 states:

“Judgements regarding the degree of burial or trenching necessary will be undertaken on a case by case basis in the light of individual circumstances. We will wish to be satisfied that the pipeline is sufficiently buried or trenched below seabed level to avoid obstruction to other uses (sic) of the sea”.

Section 10.12 states:

“...Each pipeline must be judged on its individual burial history and conditions when establishing a monitoring scheme. Inspections of pipelines should then be undertaken for a fixed period depending on the risk criteria after which time they may move to a reactive basis i.e. surveys only if concerns arise about the pipeline. As part of the process DECC will be closely involved with the Operator during the monitoring phase and will review the findings of reports in consultation with other Government Departments and fishermen representatives before deciding whether a reactive basis is appropriate.”

The Guidance Notes recognise the potential risks caused to fishermen from oil and gas assets remaining on the seabed after decommissioning. Section 16.4 provides:

“Measures to manage the potential risks arising from any legacies should be addressed in the decommissioning programme. Legacies arising from offshore oil and gas activity have particular implications for fishermen. As a result, the oil and gas industry through Oil & Gas UK, and the fisherman’s (sic) representatives have established a Fisheries Legacy Trust Company. This may manage some post- decommissioning activities and legacies and assist both industries to work safely and efficiently together by promoting harmonious working relations.”

6. Conclusion

To enable FLTC to discharge its primary objective to provide fishermen in perpetuity with information about oil and gas related legacy assets remaining after decommissioning, FLTC’s expectation is that in calculating payments in relation to a pipeline with exposed length an operator will multiply the entire length of the pipeline by £3,000 per kilometre.

This approach is consistent with the financial modeling carried out by OGUK shortly before OGUK, SFF and NFFO agreed to form FLTC. This showed contributions relating to pipelines as approximately 38% of total potential payments.

This will support FLTC to build the Fund to the level required to generate the revenue to fund its activities in perpetuity.

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