

## Offshore Energy Law

# Offshore Regasification

LNG offshore regasification units are becoming increasingly popular. Their origins are found in safety concerns – the fear that an LNG shipping casualty close to a major population centre would be catastrophic. Some modern projects are driven more by political agendas – the need to secure gas supply for a domestic market. Commercially, offshore regasification may present a quick and economical solution to boost LNG import capacity, especially when choosing the option of converting an existing LNG vessel and given the high cost of delivery of on shore facilities. There is the added attraction from a financier's viewpoint of the regas unit being redeployed, if necessary, should the original project fail or reach its expiry. Although the type of offshore regasification units vary, they are invariably these days identified by the term FSRU.

This is the first of a series of articles considering legal issues specific to FSRU projects. We are concerned primarily with the allocation of risk, passing from the original concept stage through design, construction, installation and operations. We shall deal also with the ancillary financing and insurance questions.

The starting point, as always, is "is it a ship?" and "does it matter?"

### “Is it a ship?” and “does it matter?”

The classic lawyer's answer is – it depends.

Under the UK Merchant Shipping Act 1995, a ship is defined as a vessel used in navigation. Some FSRUs are capable of operating as normal LNG carriers, and therefore clearly fall within this definition. Conversely, if the FSRU is a terminal purpose-built for being

permanently moored at a designated port, it is arguable that that unit would not be a vessel used in navigation.

However, it should be noted that, where the answer is uncertain on this point, English law tends to take a broad approach to what may properly be treated as being used in navigation – the aim being to achieve consistency of approach, and to avoid artificial designation.

The question "is it a ship" may be important in the context of the international collision regulations, which apply to vessels capable of being used for transportation. It is not necessary that the vessels should be used for transportation at the time of the relevant incident.

Thus, if the FSRU is capable of being moved, and is obviously capable of carrying LNG cargoes, then it may fall within the collision regulations.

This is clearly a relevant consideration considering the risks attendant on an LNG carrier berthing alongside the FSRU for "ship-to-ship" transfer, which must be addressed in the terminal conditions which usually govern the conduct of such operations.

It may also be important for a financier that the FSRU is treated as a ship for registration purposes, in order that any mortgage over the vessel may be enforced.

In our experience, registries usually accept offshore units onto their registry without too much concern as to whether they are accurately described as ships. Even if the FSRU is part of a wider port development, and subject to a more structured form of project financing, financiers may still wish to have the vessel registered by way of added security.

### “Financiers may still wish to have the vessel registered by way of added security”

Another reason why the distinction between a ship and a terminal may be of significance is the application of relevant codes and standards. The same issue frequently occurs in relation to FPSO installations. It is usually the case that the FPSO is required to comply with maritime standards, as imposed by the relevant registry, whilst also complying with the standards of the oil state. In the same way, an FSRU used as a permanent terminal may be required to comply with two sets of regulations, potentially with some scope for inconsistency.

Question: when considering a new FSRU project, what is the first legal risk management issue on which the parties should focus?

The answer to this is always intellectual property. FSRU projects are rich in new technology, new design, and sophisticated licensing relating to LNG cryogenics. At the outset, specialist advice is needed. For that reason, I defer to my colleague Rob Jacob who will explain more about relevant intellectual property issues in his article.

I shall follow in the next edition of Well Heeled with a more detailed description of the legal issues relating to design, construction and installation of offshore regasification units.



Max Lemanski

Partner, London

T: +44 20 7809 2224

E: [max.lemanski@shlegal.com](mailto:max.lemanski@shlegal.com)