FOCUS ON THE NIGERIAN FPSO MARKET

Introduction

Floating, Production, Storage and offloading vessels are specialised vessels used in the development of offshore fields and marginal fields located far away from any existing infrastructure. They are basically oil and gas treatment facilities located on VLCCs (Very Large Crude Carriers) and connected directly to the production wells on the seabed on one end and to an offloading system for trading tankers on the other end. In Nigeria, a general survey of most of the offshore projects, reveal that FPSOs appear to be the preferred production system being utilised for most of the projects. It is intended to highlight the various contractual issues, which may arise in the acquisition or use of these FPSOs and the applicable legal/regulatory framework.

General survey of FPSO/FSOs in use in Nigeria

FPSO Trinity Spirit ex Independence in use at Express Petroleum's Ukpokiti field OPL – 108 operated by Sheba E & P Co.;

Texaco's FSO Oloibiri in use at the Pennington/Middleton terminals – OML 88 &86;

Shell's FPSO Bonga in use at its Bonga field - OPL 212;

Exxon Mobil's FSO Falcon in use at its Yoho field - OML 104;

Total's FSO Unity in use at its Amenam field - OML 99;

Shell's FPSO Sea Eagle in use at its EA shallow waters field - OML 79;

FPSO Grey Warrior owned by Prosafe, on lease to Agip Energy for its Abo field - OPL 316;

FPSO Sendje Berge owned by Bergesen, on lease to Addax Petroleum for its Okwori field - OPL 90;

FPSO Mystras owned by SBM, on lease to NPDC/Agip for its Okpono field -OML 119;

FPSO Knock Taggart owned by Fred Olsen on lease to Addax Petroleum in use at OPL 98;

FSO Ailsa Craig on lease to Amni Petroleum for its Ima field - OML 112;

FPSO Jameston in use at Cavendish's Obe field - OML 110 operated by NNPC/Trafigura;

LPG FSO Escravos owned by Chevron Texaco located offshore Escravos;

LPG FSO Berge Okoloba Toru owned by Bergesen on lease to Global Gas & Refining Co. located at Bonny River.

FPSOs on Order

FPSO for ExxonMobil's Erha field – OPL 209 awarded to Saipem;

FPSO for ChevronTexaco's Agbami field – OPL 217 awarded to Daewoo.

Planned FPSO Projects

Several other deepwater projects abound for which FPSOs are likely to be the preferred development option. Examples include Total's Akpo, Usan and Ukot, Shell's Bonga Southwest and Ngolo, Chevron Texaco's Aparo and Nsiko, Exxon Mobil's Bosi and Statoil's Nnwa fields amongst others.

Contractual Issues

FPSOs can be acquired through ownership or lease. The decision to own or lease will depend on various considerations including the size of the field, the reservoir, budgetary considerations and the preferences of the oil company involved. The contractual issues, which are likely to result from these options, will be considered.

Ownership – Construction Contract

Contracts for outright ownership usually involves awarding a contract for the construction of a new build FPSO, conversion of a VLCC into an FPSO or upgrade and redeployment of an existing FPSO. In structuring the construction contract, the primary considerations are the offshore field, the parties/owners of the field, the construction contractor and where alternative financing is required, the financiers for the project.

The construction contract is structured as an EPCI (Engineering, Procurement, Installation and Commission) turnkey contract and the parties consist of the host government/concessionaire of the field and the oil producing company (the Employer) and the construction contractor (Contractor). There could be several other contracts like the financing and the off take agreements, depending on the arrangement between the parties.

The contract may be awarded to a single Contractor who will in turn engage several subcontractors for different phases of the project but will remain ultimately responsible to the Employer for the execution of the contract or awarded to different Contractors. The parties would agree on the key issues relating to the contract including the construction arrangement, pricing and payment, title and risk, completion date, alteration and delays, performance bonds/guarantees, force majeur, consents and warranties.

Previously, it was possible for the entire fabrication of the FPSO to be done outside Nigeria and the vessel brought into Nigeria and subsequently sold to the oil company. However, in line with the Nigerian Government's local content policy, which requires about 15% to 30% of all EPC contracts awarded in the Nigerian oil and gas industry to be performed in Nigeria using local Nigerian companies, certain aspects of the construction contract are required to be performed locally and the higher the local content contained in the bid document of a proposed Contractor, the higher the chances of winning.

Lease – Operation/Maintenance Contract

This would involve the oil company chartering the FPSO for a stated period under a time charter party arrangement where the charterer supplies and operates the FPSO on behalf of the oil company, provides the offshore crew, insurance and general maintenance. It is not uncommon to have two separate agreements, the charter party for the lease or hire of the FPSO and a separate operating and maintenance contract in which the charterer agrees to maintain the FPSO during the period of hire. The main advantage in opting for a lease is that the acquisition does not involve the huge capital outlay required in an ownership structure. In addition, FPSOs offered on a lease and operate basis are less likely to be field specific and can be re-used on different fields without incurring huge conversion costs. However, the lease option may not be suitable for large fields containing huge reserves, where the FPSO is expected to be stationed for more than 15years.

The key issues, which should be covered in the operating/maintenance contract include the responsibility of each party relating to the provision of equipment and services before and after production start up, obtention of regulatory approvals and compliance with laws and regulations of the host country, insurance, payment milestones and penalties for default, warranties, production incentive schemes and offtake arrangements amongst others.

Tax Issues

The contract for ownership or lease would have tax implications. In an ownership structure, the construction contract could be structured as a single contract or split into an onshore/offshore package for tax purposes. The offshore content will cover the fabrication and procurement works to be carried on outside Nigeria, which could in some cases and depending on how the contract is worded, be exempt from Nigerian tax, while in a lease, incentives like off balance project financing and project tax climate may make the lease option more attractive. It is essential that parties familiarize themselves with local tax regulations to take advantage of a reduced tax liability where possible.

Regulatory Issues

There are various statutory/regulatory bodies involved in the acquisition/lease of an FPSO, but the principal regulatory bodies are the petroleum and offshore and maritime authorities.

Petroleum/Offshore Regulations

The operator of the field is required to submit a Field Development Programme (FDP) and Environmental Impact Assessment (EIA) in respect of its proposed development of the field, to the Director of Petroleum Resources for approval. The operator is also required to apply to the Department of Petroleum Resources (DPR) for all permits and approvals necessary for the different stages of the project. These approvals include a conceptual design approval, detailed engineering approval, facility-operating permit, approval for calibration of the tanks and custody transfer metering system to monitor the offloading of crude oil in the FPSO, amongst others. An FPSO is regarded as an oil terminal and prior to the installation and commissioning of the FPSO on the field, the operator is required to apply to the DPR for a Terminal Establishment Approval.

The operator is responsible for ensuring that all works carried out on the project conform to approved methods, good oilfield practice and in accordance with offshore safety regulations. The operator must also ensure that its contractors comply with Nigerian law in executing the project in order to avoid sanctions from the regulatory authorities.

Maritime Regulations

Compliance must be made with requisite maritime regulations including registration of the FPSO, compliance with cabotage laws and obtention of waivers and payment of relevant dues and charges imposed by the Nigerian Ports Authority and other regulatory bodies. In the case of a new build FPSO, a provisional certificate may be issued to enable the FPSO sail from the shipyard where it was built into Nigerian territorial waters for commissioning on the field and subsequently, a permanent certificate of registry will be issued on registration.

In the case of a foreign flagged vessel on lease, requisite licences/waivers must be obtained to permit the FPSO to enter into Nigerian territorial waters. In addition, a Temporary Importation Permit (TIP) will have to be obtained from the Nigerian Customs Service to avoid payment of import duties. The TIP allows the owner or charterer to bring in the FPSO without payment of requisite import duties.

Conclusion

The points highlighted in this article are some of the salient issues a potential investor in the Nigerian FPSO market will need to be aware of before entering into the industry. In the final analysis, the exact conditions that will apply will depend to a large extent on the individual project, the parties involved and the method of acquisition adopted.

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