Panel 6. Decommissioning of Offshore Installations and Structures

Global Legal Regime on the Decommissioning of Offshore Installations and Structures
Part 1

UNCLOS & IMO Regime on Removal of Abandoned or Disused Offshore Installations & Structures in the EEZ & Continental Shelf
Abandoned or Disused Installations

1. UNCLOS and most global conventions refer to “abandoned or disused” installations, but the oil and gas community uses the term “decommissioning”

2. The term decommissioning is more inclusive than the term abandonment, as it describes the entire process associated with the disposal or removal of offshore installations, including site rehabilitation
Abandoned or Disused Installations in EEZ or CS - UNCLOS Arts 60 & 80

1. Any installations or structures which are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established by the competent international organization.

2. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States.

3. Appropriate publicity shall be given to the depth, position and dimensions of any installations or structures not entirely removed.

4. Only applies to structures in EEZ or on Continental Shelf.
1989 IMO Guidelines: Principles

- 1989 IMO Guidelines and Standards for the Removal of Offshore Installations and Structures on the Continental Shelf and in the EEZ
- General Principle: Abandoned or disused offshore installations are required to be removed, except where non-removal or partial removal is consistent with the guidelines
- Obligation of removal is on the coastal State having jurisdiction over the installation
- Notification of non-removal or partial removal is to be forwarded to the IMO
Decision to allow offshore installation to remain on sea-bed should be based on a case-by-case evaluation of:

1. Potential effect on safety of navigation
2. Rate of deterioration of material & possible future effect on marine environment
3. Potential effect on marine environment, including living resources
4. Risk that the material will shift from its position
5. Costs & technical feasibility & risks of injury to personnel associated with removal
1989 Guidelines on Removal

- All platforms installed at a water depth of less than 75 metres (100 metres if after 1 Jan 1998) and substructures weighing less than 4,000 tonnes in air must be entirely removed.

- Installations installed at a water depth of more than 75 metres (100 metres if after 1 Jan 1998) may be partially removed subject to leaving a minimum clearance of 55 metres.

- After 1 Jan 1998 no installation should be placed in the EEZ unless its design and construction is such that entire removal would be feasible.
Coastal State obligations when removal is partial

1. Coastal State should identify the party responsible (physical or juridical person) for maintaining aids to navigation if they are necessary to mark the position of any obstruction to navigation.

2. Coastal State must also ensure that the party responsible conducts periodic monitoring of the remaining material to ensure compliance with the guidelines.

3. Coastal State should ensure that legal title to installations which have not been entirely removed is unambiguous and that responsibility for maintenance and the financial ability to assume liability for future damages are clearly established.
Residual Liability for disused or abandoned structures

- Coastal States have continuing obligations with respect to disused or abandoned structure in the EEZ or CS
  1. Obligation not to endanger safety of navigation or pollute the marine environment
  2. Obligation to maintain to prevent structural failure and monitor condition of remaining structure
  3. Obligation to warn of dangers to navigation on navigational charts and by signals
Part 2

Global Legal Regime on Dumping of Offshore Platforms
UNCLOS Art 1. Definition of “Dumping”

- "dumping" means . . . any deliberate disposal of . . platforms or other man-made structures at sea;
- "dumping" does not include:
  - (ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.
Article 210. Pollution by dumping

- States shall adopt laws and regulations and measures to prevent, reduce and control pollution of the marine environment by dumping.
- States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.
- 6. National laws, regulations and measures shall be no less effective in preventing, reducing and controlling such pollution than the global rules and standards.
Article 216 Enforcement with Respect to Pollution by Dumping

1. Laws and regulations adopted in accordance with this Convention . . . shall be enforced:

(a) by the coastal State with regard to dumping within its territorial sea or its exclusive economic zone or onto its continental shelf;

(b) by the flag State with regard to vessels flying its flag or vessels or aircraft of its registry;
The “global rules and standards” referred to in Art 210 are the rules and standards set out in the 1972 Convention Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972 London)

Parties to UNCLOS are not bound by 1972 London Convention

However, parties to UNCLOS must adopt laws and regulations and take other measures to prevent, reduce & control pollution from dumping that are no less effective than the global rules and standards in the 1972 London Convention
1972 London Convention

**1972 London Convention**
- Adopted 29 Dec 1972; EIF 30 Aug 1975
- Status: 87 parties

**1996 Protocol**
- Adopted 2 May 1996; EIF 24 Mar 2006
- Status: 42 Parties
1996 Protocol

• Updates the 1972 London Convention by incorporating the principles of international environmental law agreed upon at the 1992 Earth Summit in Rio de Janiero
• Incorporates principles such as the Precautionary Approach
• Prohibits all dumping in the oceans except for material listed in its Annex
• Requirements for a permit in 1996 Protocol are more strict
The definition of “dumping” in the London Convention includes the abandonment or toppling of a disused platform for the purpose of disposal.

Under both the 1972 Convention and the 1996 Protocol offshore installations can be disposed of at sea with a Permit.

However, under the 1996 Protocol States should avoid dumping in favour of environmentally preferable alternatives such as reuse, off-site recycling and disposal on land.

Placement of structures on seabed for purposes other than disposal is NOT DUMPING.
2000 London Convention Guidelines

- 2000 London Convention Guidelines for the Assessment of Wastes and other Matter that May be Considered for Dumping
- Not legally binding, even on parties to 1972 London and 1996 Protocol
- Intended to be used as GUIDELINES by national authorities in deciding whether to issue a permit for disposal of structures
- States not parties to 1996 Protocol would clearly not be bound by the Guidelines
“Rigs to Reefs” and Dumping

• There is increased interest in the international community in converting offshore installations and structures to artificial reefs in order to enhance marine biodiversity and fisheries.

• The placement of structures on the seabed for purposes other than disposal is not within the definition of dumping under UNCLOS.

• Therefore, the placement of offshore structures on the seabed for the purpose of creating artificial reefs is not dumping under UNCLOS or the London Convention and its 1996 Protocol.
2009 LC/UNEP Guidelines for Placement of Artificial Reefs

- Purpose is to assist countries in assessing proposals for placement of artificial reefs on basis of scientifically sound criteria
- Not legally binding even on parties to the London Convention
CONCLUSIONS
on the Global Regime Governing the Decommissioning of Offshore Installations & Structures
Conclusions: Removal of Abandoned or Disused Structures & Installations

1. There is some confusion about the legal regime governing the removal of offshore structures and installations in the EEZ & CS

2. The extent to which States parties to UNCLOS must comply strictly with the 1989 IMO Guidelines is not clear

3. If it is found that the “rigs to reefs” is a viable and preferable option in some sea areas, the 1989 Guidelines may be too strict

4. It may be in the common interest to have global or regional guidelines on the removal of disused or abandoned platforms in archipelagic waters and the territorial sea
1. The legal regime governing the disposal of platforms under their jurisdiction is clear for parties to 1972 London & the 1996 Protocol

2. States Parties to UNCLOS must adopt laws and take measures that are “no less effective” than the “global rules and standards” in the 1972 London Convention

3. The placement of structures on the continental shelf to create artificial reefs to enhance biodiversity is NOT DUMPING

4. The 2009 LC / UNEP Guidelines for the Placement of Artificial Reefs are NOT LEGALLY BINDING
Thanks for Your Attention

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