

# Shipping & Maritime





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# Introduction

We are a global law firm with local expertise

CMS has 77 offices in 43 countries across Europe, the Middle East, Russia, China, Hong Kong, North Africa and Latin America. We are recognised as a leading law firm both in the UK and globally, delivering a one-stop solution for clients. Unlike the traditional one-off transactional approach, our model is built on strong, trusted and long-term relationships with our clients. By understanding your strategy and culture we are able to offer practical and relevant commercial legal advice to meet your needs.

We offer a distinctive, technology-driven offering to clients, bringing together market-leading sector specialists with outstanding global reach, underpinned by a 250 year heritage in the City and Scotland.

## Our shipping and maritime practice

We have extensive experience advising across the maritime industry from FPSOs to offshore support vessels and from ferries to fishing boats.

We are recognised as a leading and trusted adviser to a wide range of clients within the sector including financial institutions, leading national and international private companies, the ‘supermajors’ in the oil and gas market, as well as national and local governmental bodies.

Our industry knowledge and specialist expertise allow us to offer clients much more than just technical legal advice; we are also able to advise on market practice, negotiating positions and risk assessment informed by a thorough understanding of local and international issues.

### Our advice spans:

- shipbuilding contracts and procurement;
- vessel sale and purchase;
- marine insurance;
- charterparties, leasing and ship management;
- financing and security arrangements;
- operational maritime issues;
- transportation of goods by sea;
- harbour access arrangements;
- health & safety; and
- disputes and arbitration; and
- environment and health & safety.

“ Very competent, very organised and very well resourced.

*Chambers UK*

“ They are the best and I would have absolutely no hesitation in returning to them.

*Client*



# Shipping projects & contracts

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We are a highly specialised and experienced team with knowledge of a wide variety of shipping contracts including procurement and ship building, vessel sale and purchase, refit and repair, charterparties, ship management, transportation of goods by sea and harbour access arrangements. We know where the problems and pitfalls can lie. We offer highly technical, industry-specific advice which is rooted in practicality.

Highlights of our recent experience include advising on:

### Ship owner

- International ship purchase and financing, charterparties, towage, refit and repair contracts, ship management arrangements and supply contracts for offshore plant and equipment.

### Caledonian Maritime Assets Limited

- The procurement of a new roll-on roll-off ferry for the Stornoway – Ullapool route including shipbuilding contract, supervision agreement, operating lease, charterparty and associated contracts, and subsequent purchase agreement.
- The funding and construction contracts for a new carbon hybrid ferry combining diesel and electric battery power.

### Ship owner

- Sale of vessel to long-term charterer and unwinding of associated tax leasing structure.

### OSX Brasil, S.A.

- Shipbuilding contract for pipelay support vessel and related vessel design and equipment supply subcontract.
- The engineering, procurement, construction and installation of various FPSOs for use offshore Brazil.

### Basalt Infrastructure Partners

- Acquisition of a 100% interest in North Star Shipping, which currently owns and manages 31 vessels supported by c.50 fast rescue crafts and 35 daughter crafts all providing emergency response and rescue services to the offshore industry in the UK North Sea.

- Acquisition of Boston Putford Offshore Safety Ltd, owner of a fleet of ERRVs operating in the North Sea, from the SEACOR group.

### BP

- Charter and purchase option of the FPSO "Foinaven Petrojarl, including detailed end of life recycling requirements.
- EPCI contracts for 4 FPSO vessels for use on 4 deep-water oil and gas field offshore Angola.

### Ship owner

- The conversion of a vessel into an FSRU (Floating Storage and Regasification Unit) by Singapore shipyard.

### International shipping company

- UK aspects of a Singapore based acquisition and restructuring of an international shipping, and other group, including pooling, ship management and crew management structures.

### Iranian ship owner

- Ship building contracts, procurement documents and bankability issues for tanker fleet renewal.

### Funder SPV

- Advising them in their capacity as owner of semi-submersible drilling rigs laid up in Brazil on a rig management and marketing contract and a contract for pre-operational services. Also advising on the requirement to establish a Brazilian Navigation Company to provide cabotage shipping services.

### FPSO owner / operator

- A conversion contract with Keppel Shipyard for the world's first floating facility that has a large sulphur processing plant installed capable of producing molten sulphur.
- Various shipbuilding contracts including for three ice-class support vessels and two FPSOs.

### Atlantic Offshore

- UK aspects of the wider group restructuring in Norway, including 24 vessels which operate off Ireland, the Mediterranean, the Southern Atlantic and the North Sea, their charterparties, funding arrangements and crewing/management.

### Vessel construction in Brazil

- Joint venture arrangements for the development of a shipyard for the construction of offshore vessels and equipment.

### Petrobaltic

- The purchase of a jack-up rig from Transocean.

### Sevan Marine ASA

- The terms of a range of charterparties, IP licence agreements, FEED and pre-FEED contracts, services agreements and Duty Holder contracts for Sevan's patented cylinder-shaped FPSOs.

### Pro bono

- The transfer of the M.V. Balmoral, a steamship of considerable historic interest from the Waverley Steam Navigation Company to the Balmoral Fund.

### OSX Leasing Group

- The acquisition of two VLCCs for conversion into FPSOs, including completion mechanics, procedures for re-registration of the vessels with the Liberian ship registry and ship management agreements.
- FPSO customisation works, including drafting and negotiation of an engineering and project management agreement, a shipyard EPC contract and numerous procurement contracts for topsides packages.

### Brazilian oil company

- Charter contracts and operation agreements for an FPSO and an anchor handling tug vessel, including advising on QHSE issues, contractual renegotiations and remedies available in relation to contractual breaches.

### OGX Petróleo e Gás

- Drilling rig and vessel charter and operation agreements, various services and procurement contracts, including for pilotage services.

### Maltese client

- Acquisition of a super yacht.

### GDF SUEZ UK

- Preparing suite of charterparties for anchor handling vessels, tug support, dynamic positioning and emergency response vessels.

### A national power company

- The charter and leasing of an offshore floating regasification vessel for use in the importing of LNG from an offshore terminal.

### Defence contracts

- Reviewed and reported on arrangements between a major defence contractor and port authorities at Rosyth for ship and submarine refit and repair.
- Advised another company within the same group on (i) the start-up of a special purpose vehicle to manage Faslane and Coulport naval bases on the Clyde under a five year contract valued at GBP£80 million p.a. with a five year option to extend; and (ii) the outsourcing of the operation and maintenance of the Faslane Naval Base.

### Crewing Contracts

- Ship management and crewing contracts, together with tax implications of proposed structures, for a group of Scottish companies managing a fleet of vessels operating worldwide.

### Scottish Government

- Restructuring of Caledonian MacBrayne Limited into an asset-owning company (transferring to it the ownership of 24 harbours on the west coast of Scotland and a number of ferries) and a service-providing company

“ Highly regarded in the market.

Chambers



# Transport of goods

## International Shipper

- Contracts for multi-modal transshipment of goods around world, including conflicting contract terms and implications of counterparty insolvencies.

## Brazilian power company

- Advising on coal trading contracts, including international shipping provisions for deliveries into two ports in the North East of Brazil.

## International Shipper

- Transportation and shipping contracts and agreements with various UK ports for harbour access, stevedoring, storage and warehousing services.

## Industry Consortium

- Competition issues arising out of an agreement to share certain transport facilities.

## OSX Leasing Group

- Freight forwarding contracts.

## UK food manufacturer

- Template contract for transportation of foodstuff around UK.

## Various

- Bills of lading and other trans-shipment documentation.

## Schlumberger

- Vessel sharing arrangements.

## BP

- Restructuring of Easington/Dimlington transportation arrangements.

## Galp Energia

- LNG purchasing and price reviews.

## UK Continent Gas Interconnector

- Advised shippers and other traders on trading and transportation in interconnector and at the Zbrugge Hub.

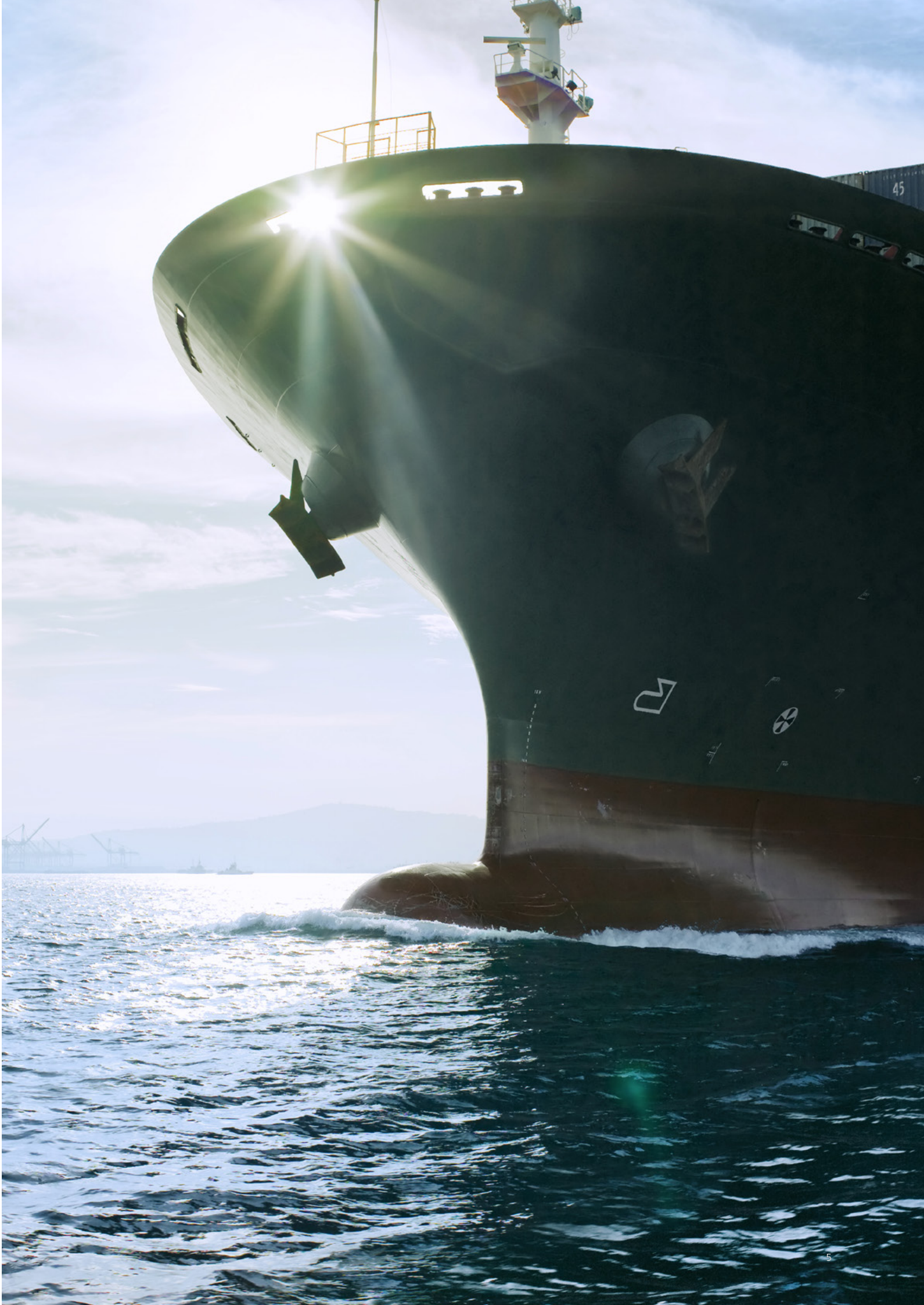
## GDF SUEZ

- Voyage charterparty arrangements for the carriage of field development and transportation equipment from Egypt to Aberdeen.

## State-owned multi-national energy company

- Negotiating multiple UK Port Access Contracts.

“ Strong credentials in this specialised area with a very experienced team which is largely unrivalled by other firms.





# Ship financing

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CMS advise extensively on all aspects of ship finance across its London and Hong Kong teams, including secured lending, leasing and restructuring. We have assisted a wide variety of banks and private companies with the financing of new and used vessels and equipment, including container ships, dry bulkers, oil tankers, cruise ships, drillships, jack-up rigs, offshore support vessels, FPSOs, FSOs, FSROs, FLSOs, semi subs, LNG carriers and many other types of ship.

We regularly advise on restructurings and workouts, bankability reviews, funded asset acquisitions, borrowing base financings and project financings and syndicated and bilateral facilities with and without ECA support and/or ECA direct lending. Set out below is a selection of the transactions on which we have advised:

### A European Offshore Oil and Gas Company

- US\$1.3 billion financing of the construction and delivery of 8 LNG carriers by a syndicate of international banks, together with ECA support.
- US\$576.5 million re-financing of 5 LNG carriers comprising secured senior and junior tranches by a syndicate of international banks.
- US\$1.05 billion re-financing of 8 LNG carriers comprising term loan and revolving credit facility tranches by a syndicate of international banks.
- US\$450 million refinancing of 5 LNG carriers comprising a revolving credit facility by a syndicate of international banks.
- US\$130 million term loan financing of one newbuild LNG carrier from two international banks.
- US\$1.1 billion financing of the construction and delivery of 7 LNG carriers by a syndicate of international banks, together with ECA support.
- US\$576 million re-financing of 6 LNG carriers comprising term and revolving credit facilities by a syndicate of international banks.

- US\$200 million re-financing of 3 LNG carriers comprising a term loan facility by a syndicate of international banks.
- US\$270 million re-financing of 3 LNG carriers comprising a term loan facility by a syndicate of international banks.

### Malaysian Owner/Operator

- US\$1.2 billion globally syndicated project financing facility for the conversion and operation of its FPSO offshore West Africa, to go on charter to a European NOC.
- Refinancing of its FPSO offshore India by a syndicate arranged by a variety of South East Asian and Middle Eastern banks.
- In respect of various tenders for FPSOs in South America and West Africa.
- In respect of its bridge financing of an FSU for operations in the Mediterranean.

### Two Leading European Banks

- The US\$177 million financing of five jack-up drilling rigs operated in the Persian Gulf and Black Sea.

### Greek Offshore Oil and Gas Equipment Provider

- The restructuring of its senior secured term loan in respect of its refinancing of four drillships on charter in Brazil and West Africa.

### An International PRC Finance Lessor

- On the sale and leaseback financings of two FSRUs for a major LNGC/FSRU owner operator, the FSRUs to be operated in Brazil and Australia.

### Brazilian Independent

- US\$420 million syndicated loan financing of its first FPSO
- US\$850 million syndicated loan financing of its second FPSO
- US\$500 million secured bond financing of its third FPSO

each for use offshore Brazil, and a mix of Korean and Singapore conversion projects, newbuild and second-hand purchases.

### Brazilian Operator

- Initial bridge financing in respect of its acquisition of an FPSO for pre-salt waters in Brazil from a PE fund and on the long term project financing of the same, including provision of security interests over certain of its oilfield rights.

### A leading European financial institution

- A joint venture through which two LNG carriers are owned and operated, including on vessel owner share acquisition, subsequent restructuring of the ownership and reflagging of the vessels and amendments to the existing loan facility.

### Arranger and bookrunner

- A pre-IPO convertible bond offered by a West African offshore support vessel provider. The bond was secured by way of second-ranking security over more than 20 offshore support vessels flagged in a variety of jurisdictions around the world.

### Major UK Commercial Bank

- The financing of a fleet of tugs involved in refinery support work in the Thames Estuary.
- The refinancing of a fleet of workboats providing naval and offshore support in the UK and Europe and subsequently on the inclusion of a new build workboat into the fleet.
- The acquisition financing of a fishing company including security over five fishing vessels. Subsequently advised on the provision of further funding for four scallop fishing vessels (three UK registered and one registered in Belgium).

### A leading offshore regasification unit owner

- The financings of two FSRUs to be chartered to two separate oil and gas majors.

### Shellfish Connection

- UK security aspects of the GBP£98 million acquisition of Europe's leading wild-caught shellfish company, including the granting of security over 12 vessels and rights over licences to fish and fixed quota allocations.

“Tim Elliott is ‘totally on top of the issues’ and has a real ‘depth of knowledge’.

*Legal 500*

# Disputes

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When disputes arise, clients expect their lawyers to be true specialists, understanding the industry, marketplace and their immediate concerns. We work with clients on dispute avoidance as well as dispute resolution and we have significant experience in ADR. Wherever you need us, you will receive a seamless service from an outstanding team of international arbitration practitioners and litigators with local support in 71 cities across the world including Algiers, London, Dubai, Singapore and Rio de Janeiro.

Highlights of our recent experience include advising on:

### Norwegian vessel owner

- Proceedings seeking the arrestment and sale by a mortgage holder in relation to a vessel moored off the coast of Scotland.

### Norwegian charter company

- An LCIA arbitration concerning an alleged breach of the contract relating to the hire and damage of a drillship offshore Trinidad.

### Oil and gas production and development company

- A Commercial Court dispute worth over GBP£10.4 million regarding the hire of an FPSO.

### Brazilian vessel owner

- Contractual and extra-contractual claims for damage sustained to an FPSO at a South Korean shipyard, including conflict of laws issues and insurance coverage.

### Comhairle nan Eilean Siar

- Successfully defended adjudication proceedings raised by contractor around unforeseen physical conditions on the seabed during the extension of the pier/breakwater at Kallin Harbour.

### North Sea Contractor

- Claims and counterclaims in the High Court and Court of Appeal (totalling approx. GBP£20 million) arising from the construction of an FPSO.

### International Mooring Services Company

- Successfully defended US\$127 million breach of contract litigation in relation to conversion of oil tanker into an FPSO.

### Ship owner

- Dispute with Chinese contractor over delayed and sub-standard works to 2 vessels in Chinese shipyard.

### Brazilian shipyard

- Claims for demurrage, port storage, increased transportation costs, and physical damage sustained in the shipment of heavy machinery from Asia.

### Vessel owner / operator

- Court of Session dispute over removal and relocation of material on the seabed, in German territorial waters, as part of the works for creation of an offshore wind farm.

### Oil & Gas major

- Advising a major oil and gas company on claims against a contractor arising from delays to refit, expansion and tie-in works to an FPSO stationed in the North Sea.

### US based oil service company

- The provision of engineering services equipment in relation to an FPSO. Commenced arbitration and advised on the potential arrest of the FPSO in Dubai. Advised on issues of insolvency under Norwegian law following bankruptcy of the owner of the FPSO.

### Vessel owner

- Complex LMAA arbitration dispute under ship management contract.

### Rosneft Marine (UK) Ltd

- Represented Rosneft as an interested party on their intervention in a Court of Appeal oil products case that Lloyd's List has described as 'the most spectacular shipping legal imbroglio so far this century.'

### Brazilian oil company

- Advising on disputes with the provider of a chartered FPSO operating offshore, including in relation to maintenance failings and downtime. Dealing with international arbitration and Brazilian court proceedings and negotiating a settlement agreement including contractual amendments and maintenance work commitments.

### Multinational rig builder

- SCMA arbitration on contractual issues and SIAC arbitration over defects to self elevating platform.

### Seller

- Arbitration with buyer over the termination of a contract of sale for three high speed vessels.

### Offshore engineering contractor

- Disputes over charterparties, diving services and platform construction support services.

### Manufacturer of saturation diving systems

- Dispute over quality of winch systems.

### FPSO owner

- Injunctive proceedings in the English High Court commenced by a facility agent and security trustee concerning US\$420 million loan agreement and security documents.

- Termination of three long-term FPSO and one platform charter, with total termination consequences of over US\$1.5 billion.

- A dispute with an oil company concerning the payment of additional costs relating to an FPSO's activities and upgrades to the vessel.

### Ship owner

- A contractual dispute regarding the construction and delivery (CPT – INCOTERMS 2010) of cranes.

### Ship-yard

- An international LMAA arbitration arising out of the conversion of a bulk carrier into a pipe-laying vessel.

### Funding bank

- On a bills of lading dispute.

### Oil company

- A dispute with a rig owner concerning the payment of breakdown rates and set-off of 'spread costs' where breakdown was a breach of contract.

### Brazilian shipping agency

- Advising in relation to a potential claims against a ship-owner and its P&I Club relating to a pollution incident in a Brazilian port.

### UK contractor

- A claim relating to the removal and relocation of equipment and material on the seabed.

### Offshore services company

- A dispute regarding a contract for the supply and maintenance of mooring chains, buoys and other marine equipment between a provider of marine services and a supplier of goods to the UK Ministry of Defence.

# Environment and Health & Safety

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We provide comprehensive advice on the full spectrum of environmental and health & safety regulations applicable at the international, EU and UK level. Our environment law team is objectively recognised by clients and peers as one of the leading UK and EU practices. This team has been placed in the top tier by both of the two main legal directories for many years, i.e. Band 1 in Chambers and Tier 1 in Legal 500: *"a formidable team"*.

We have extensive experience advising on a wide range of environmental and H&S issues, including, but not limited to, the regulation of dangerous chemicals, organic pollutants and bioactive substances, waste regulation and transfrontier shipment of waste (including hazardous waste), emissions of noxious gases, nuisance claims, fire safety, asbestos management, regulatory investigations, criminal prosecutions, civil offences and civil sanctions, decarbonisation of shipping, emissions standards, fuel standards, Poseidon Principles, responsible ship recycling, ballast water management, emissions abatement technologies, sulphur regulations and occupational health & safety claims including accidents at work and fatalities.

Selected highlights of our recent experience includes advising:

- **A major international offshore services company** – on contractual provisions relating to decommissioning of offshore facilities (including pollution and waste management).
- **A contractor** – on environment provisions of a potential CCS project in Scotland involving the capture, transport and storage offshore of CO<sub>2</sub> from an onshore fossil power station.
- **FPSO owner / operator** – on environmental covenants and sustainable ship recycling pursuant to the Hong Kong Ship Recycling Convention and the EU Regulation on Ship Recycling.
- **Upstream oil & gas company** – on environmental provisions in a distressed sale and leaseback of 15 vessels.
- **International lender** – on scope of environmental protections in facility agreement for 4 Chinese newbuild container ships.
- **SPV vessel owner** – on sale and leaseback transaction of an FSRV. Drafting Environmental provisions and advising on the wider regulatory landscape.
- **Citi Global Markets Limited** – on the IMO 2020 Global Sulphur Cap and on the international, European and local legal drivers aimed at decarbonising the marine industry and curbing shipping emissions.
- **Capital Group** – on the legislative changes driving the decarbonisation agenda in the shipping industry.
- **P&I Club Managers' Errors & Omissions Lineslip** – on instructions for alleged errors by Managers of Steamship Mutual, North of England and Liverpool & London Clubs.
- **A broker** – on a claim brought by a major Norwegian P&I Club against its reinsurers for losses incurred under facultative reinsurances of oil platforms in the Gulf of Mexico.
- **E&O underwriters'** – on a substantial claim made against a P&I Club and its managers following the rejection of a discretionary claim lodged by a club member concerning the grounding and subsequent arrest of its vessel.
- **European vessel owner / operator** – on environmental covenants in financing agreements and more recently on the legal and practical ramifications of compliance with the sulphur 2020 ban, responsible ship recycling and the Poseidon Principles.

# Marine Insurance

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We are recognised as a leading insurance and reinsurance practice and have been involved with some of the biggest losses in the marine and energy market over the last 25 years.

Our extensive experience includes litigation, arbitration, mediation, loss of cargo, charter party disputes, LOPI, catastrophe and pollution.

Our experience includes:

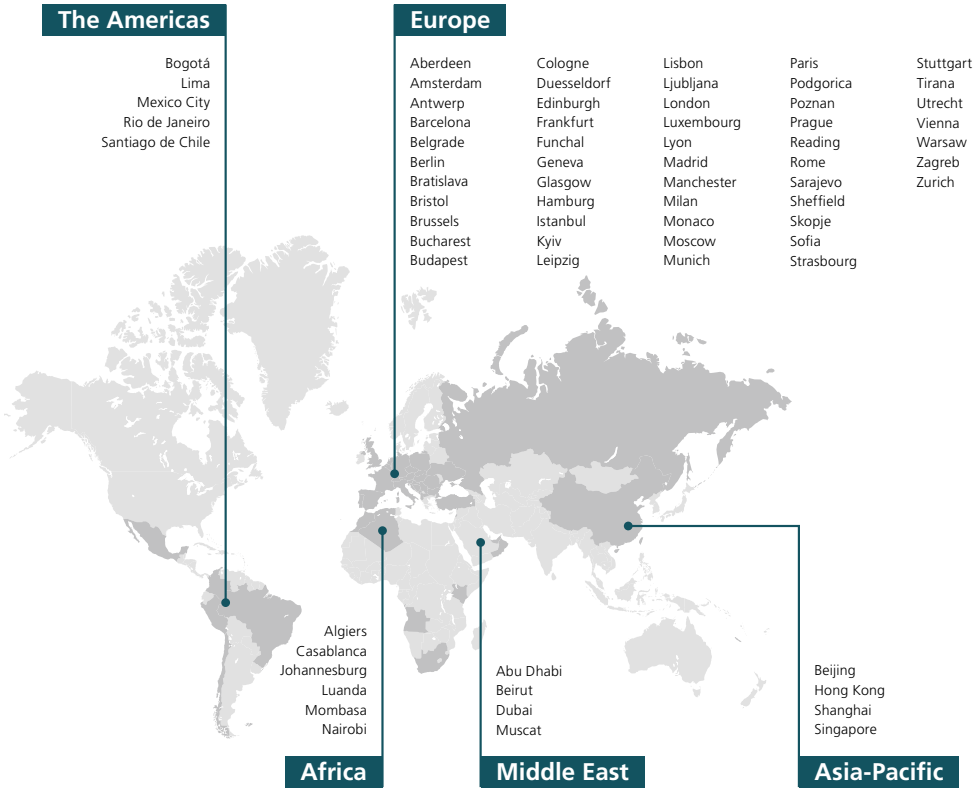
- Representing reinsurers of a Marine Cargo open cover for a major German motor manufacturer, following the explosion at Tianjin in China in 2015 which caused extensive damage to thousands of vehicles in transit. Issues included the relationship between the local Chinese policy and the global Master Policy, the extent of damage (whether sufficient for the vehicles to be treated as constructive total losses), the limits applicable to different locations in the port of Tianjin and additional sub-limits for Storage, Removal of Debris and Expenses.
- Acting on a US\$80m coverage dispute with P&I Club insurers following the constructive total loss of a vessel that was carrying a cargo of self-decomposing fertiliser.
- Acting for a Brazilian shipping agent in a coverage dispute with P&I Club insurers in respect of liability for pollution damage caused by a vessel in the Port of Santos, Sao Paulo.
- Acting on behalf of ship owners in relation to disputes involving natural gas charter parties and loss of hire operators including claims against P & I clubs.
- Advising Italian insurers in relation to subrogated recovery actions in respect of a negligent JH143 Shipyard risk assessment survey which contributed to damage following a fire on a vessel.
- Advising continental reinsurers in relation to a dispute with its cedent involving the presentation of casino barge losses arising from Hurricane Katrina.
- Acting as appointed solicitors on the P&I Club Managers' Errors & Omissions Lineslip led by Janson Green/QBE at Lloyds, including instructions for alleged errors by Managers of Steamship Mutual, North of England and Liverpool & London Clubs.
- Acting in a number of disputes involving reinsurances of P&I Clubs, acting for reinsurers and reinsurance brokers. Acted for the brokers in *Commercial Union v Mander*, a dispute involving reinsurances by Lloyds of a number of clubs and for the reinsurers in *GIO v Liverpool & London*, a dispute involving reinsurances of both the (now defunct) Liverpool & London Club and Ocean Marine Mutual.
- Acting for the broker in a claim brought by a major Norwegian P&I Club against its reinsurers for losses incurred under facultative reinsurances of oil platforms in the Gulf of Mexico.





- Acting in a number of similar disputes relating to reinsurances of stevedoring mutuals including Signal Mutual and American Longshore Mutual Association, the underlying claims involving personal injuries and Jones Act claims.
- Representing E&O underwriters' interests in a substantial claim made against a P&I Club and its managers following the rejection of a discretionary claim lodged by a club member concerning the grounding and subsequent arrest of its vessel.
- Advising on property and liability (insurance and reinsurance) claims in litigation, arbitration and mediation arising from personal injury, pollution, wreck removal, collision, grounding, Particular and General Average, salvage and piracy.
- Advising reinsurers in respect of complex elemental/non-elemental causation issues to recover significant losses arising out of physical damage and LOPI to an FPSO owner/operator.
- Defending large market of insurers in London Commercial Court proceedings in respect of claims arising from freight liability losses suffered by various insureds.
- Defending a market of international marine reinsurers in a coverage dispute with the captive insurer of P&O for the latter's recovery in respect of multi-million Euro fines levied upon P&O's subsidiary for the importation of silicon into the EU.
- Advising a North Sea contractor in relation to claims and counterclaims totalling GBP£20 million arising from the construction of an FPSO.
- We also have experience in marine across several of our European offices, notably in Hamburg where we have a strong practice focused on serving the maritime industry in relation to shipbuilding contracts, sale and purchase of vessels, charter parties and marine insurance.

# Facts and Figures



- **76 offices**
- **70 cities**
- **> 1,100 partners**
- **> 5,000 lawyers**
- **> 8,000 total staff**
- **Combined annual turnover:**  
EUR 1.426bn (2019)
- **43 countries**

**European countries**  
Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, France, Germany, Hungary, Italy, Luxembourg, Republic of North Macedonia, Monaco, Montenegro, the Netherlands, Poland, Portugal, Romania, Russia, Serbia, Slovakia, Slovenia, Spain, Switzerland, Turkey, Ukraine and United Kingdom

**Outside Europe**  
Algeria, Angola, Brazil, Chile, China, Colombia, Kenya, Lebanon, Mexico, Morocco, Oman, Peru, Singapore, South Africa and United Arab Emirates



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