

IMCA is the international trade association representing offshore, marine and underwater engineering companies

It seeks to:

- strive for the highest possible standards with a balance of risk and cost in: health and safety; technology; quality and efficiency; environmental awareness and protection;
- achieve and sustain self-regulation in the industry;
- ease the free movement of equipment and personnel globally;
- achieve equitable contracting regimes;
- provide the framework for training, certification, competence and recruitment to support and sustain the industry globally;
- resolve industry issues; and
- promote co-operation across the industry.

Members include pipelay, heavy lift, diving, remotely operated vehicle, survey and offshore construction contractors, plus various contractors operating specialist marine equipment.

IMCA has two core activities in which all members participate:

- Competence & Training includes a comprehensive framework devoted to promoting safety by defining and encouraging training and competence in key safety-related positions.
- Safety, Environment & Legislation (SEL) includes monitoring national and international regulatory bodies, circulation of relevant information to members and advancement of industry positions where necessary

Members join in one or more technical divisions relevant to their own activities:

- Diving
- Marine
- Offshore Survey
- Remote Systems & ROV

IMCA works with a global focus, but also has regional sections covering the key offshore areas: Asia-Pacific, Central & North America, Europe & Africa, Middle East & India and South America.

IMCA has published substantial and comprehensive good practice guidance on marine operations based on its members' experience in a range of related areas. More details on specific activities are set out on these factsheets.

IMCA General Contracting Principles is a discussion document which aims to serve the long-term interests of all participants in the oil and gas industry by encouraging an equitable contractual balance based on parties' respective risks and rewards.

## Goals

IMCA identified four key risk allocation goals, with the very apt acronym 'FAIR', which lie at the heart of the IMCA Contracting Principles:

- F** Fair (not equal) and realistic distribution of risk in proportion to relative rewards
- A** Allocation of risk – to the party best placed to assume
- I** Insure – sufficient scope of cover
- R** Reasonable – avoid 'duplicate' assumptions of risk and minimise potential for dispute

## The Principles

Fifteen principles are highlighted in the document, with both a legal definition and a following comment more easily understood by the layman showing clearly how each principle measures up to the FAIR risk allocation goals. The principles covered are:

- ◆ Company group and contractor group property and personnel
- ◆ Project works (including both company and contractor supplied items)
- ◆ Pollution
- ◆ Third parties
- ◆ Consequential losses
- ◆ Warranty obligations
- ◆ Limitation of liabilities
- ◆ Minimum insurance requirements
- ◆ Force majeure and suspension
- ◆ Delay
- ◆ Variation orders
- ◆ Free access to worksite
- ◆ Intellectual property rights
- ◆ Termination by company for convenience
- ◆ Company's obligation to pay contractor

## Related work

IMCA has also published *Decommissioning contracting principles* and a further discussion document entitled *Identifying and assessing risk in construction contracts*. Reflecting the principles, this addresses the handling of risk in all of the main areas – contractual, performance, financial, political, technical, geographical and operator risks.

IMCA has also issued generic contracts to assist parties and promote dialogue, particularly in relation to marine construction, offshore survey and ROV operations.

## Competition Law

The IMCA constitution states:

*"The Association, its regional sections and all committees will comply with all applicable competition law (competition, antitrust and similar laws) including those of the United States of America, the European Union, the United Kingdom and other countries in which the Association is active."*

This is a policy which IMCA takes particularly seriously, with stringent guidelines in place for all of its committee and other meetings and a clear strategy on its work in relation to achieving equitable contracting regimes.

The *IMCA Contracting Principles* are not intended to represent a complete analysis of all risks, which are covered by contracts in the oil and gas industry. In general, they reflect well-established industry custom and practice in addressing certain risks, such as the knock for knock indemnity regime. They are not contractual clauses. They do not in any way form a standard contract, nor is their adoption in any way mandatory – indeed, every page of the document carries a reminder that *'The publication of these principles by IMCA is intended to assist and promote industry dialogue and efficiency and their adoption is not mandatory'*.

The principles are published as a discussion document and as an aide for clients and contractors alongside their in-house standard contracts and industry published standard contracts. Each IMCA member is, of course, free to negotiate its own terms, qualify such contracts and to make use of the principles should it wish to do so in order to achieve a contract satisfactory to both parties.