You, shipbuilding and offshore construction & Ince, in any case
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In this fast-paced world you are seeking a pro-active business services partner that moves your company forward, someone who understands your challenges and the importance of commitment. Meet Ince, your trusted partner, in any case.

From our offices in Europe, the Middle East and Asia, our dedicated team of legal and business services professionals can guide you in developing and delivering on your roadmap for sustainable success and provide you with advice that will not only safeguard your business interests but ensure you reap commercial rewards.

Providing you with strategic guidance and well considered advice, we are renowned for the depth and breadth of our legal services and our understanding of the industries in which you operate. We recognise your needs and offer business focussed legal services, together with advice that makes commercial sense.

One firm, in any case

With about 150 years of experience, we have cultivated a seamless ‘one-firm’ approach that is tailored to your personal needs and pairs you with the best legal and strategic business professionals in your field; whenever, wherever, and in any case.

Support, every step of the way

By leveraging our sector expertise, legal skills and market experience, you can feel safe in the knowledge that we will both handle complex legal issues on your behalf while providing you with expert strategic advice when the need arises.
Our contract experts are also litigators – and we draw on our experience of disputes when drafting and negotiating contracts. We know where the problems may arise, because we have seen many of them before. Our aim is to prevent our clients from getting into trouble in the first place. Often we use this litigation experience to advise our clients behind the scenes on how to avoid legal disputes during construction and conversion projects without the other party even knowing of our involvement.

Inch has many years’ experience of drafting and negotiating contracts for engineering and construction in the shipbuilding and energy sectors, and in resolving disputes which arise during the life of these projects. Our credentials are founded on advising maritime service providers and offshore contractors over many years. We are one of the leading practices specialising in floating and fixed installations in both deep-water and near shore environments.

In handling such cases, we are accustomed to dealing with legal, contractual and technical matters, and in particular working alongside consultants such as programming experts, quantity surveyors and engineers engaged by clients.

We deal with contracts and disputes ranging from the design, engineering and construction of floating production (oil and gas) including process topsides, floating regasification, floating power and fixed installations (including wind turbines, moorings, berths and production platforms), specialised vessels such as well stimulation ships, mobile offshore drilling units, pipelines, terminals, and onshore power and industrial complexes such as refineries, and waste-to-energy plants.
Shipbuilding and offshore construction

We have decades of experience in shipbuilding and offshore construction and are at the forefront of acting for shipowners and builders worldwide. Our offices have handled hundreds of cases involving conventional vessels and offshore construction projects over the past few years.

We frequently advise on the wording of contracts for newbuildings, floating production units (including process topsides), specialised vessels such as well stimulation ships, mobile offshore drilling units, together with associated documents such as performance and refund guarantees, and also the financing of such projects. Our experience includes the drafting of many contracts from scratch and we often participate in negotiations.

Floating production (Oil, LPG and LNG)

We have been involved in the development of floating offshore storage and production vessels since the first FPSO was commissioned in the late 1970s. Building on this experience, we are now one of the world’s leading legal service providers to the owners and operators of FPSOs, FSRU’s and MOPUs/MODUs and other offshore units. Our expertise has easily translated into the developing FLNG (floating liquefaction) field where we are already assisting a number of clients in relation to current or proposed projects. We assist our clients in project tendering, drafting, negotiating and qualifying the project contracts (whether they be FEED contracts, EPCIC – with or without marine spread installation services – or leases/BOT contracts), drawing up or advising on the construction or conversion contracts, financing the projects and insuring the risks involved. We have undertaken project work in all of the major offshore fields and have particular experience of Brazil, North Sea, Gulf of Guinea and the South China Sea.

Floating regasification (LNG)

Many of our clients involved in LNG shipping have now transitioned into offering floating regas solutions. We have worked closely with those clients to provide them with the advice and assistance that they need to successfully tender to provide floating regas units and import terminals along with the ancillary services such as moorings and shuttle tankers/LNG train tankers. We have been involved in projects in South America, the Baltic, the Arabian Gulf, Italy, Pakistan and Indonesia. We have also been heavily involved in negotiating conversion, topsides supply and new building contracts for FSRUs.

Floating power

Over recent years energy providers have focused on the offshore generation and supply of power and there has been an increased development of floating power plants. Our maritime expertise combined with our EPC practice has allowed us to assist contractor clients in developing power generation solutions whether this be barge, platform or vessel based. We have worked on bespoke EPC arrangements to assist in the development of FPP projects including associated heavy lift and topsides requirements for clients.

Renewables

Based on our experience of offshore construction and drilling, as well as shipping, we have built a significant wind and wave energy practice advising contractors, turbine manufacturers and power companies. We have advised on various offshore wind farms, both operational and under construction, as well as a hybrid offshore wind and gas farm. We have also worked intensively on the construction of specialist installation vessels utilising the very latest technologies, and regularly advise offshore contractors on the full range of installation contracts.
Fixed installations and pipelines

In addition to bespoke EPC project work we are have also worked extensively with LOGIC and FIDIC contracting arrangements. We have assisted clients on numerous onshore and offshore construction projects from oil and gas pipelines (including flow stations, pump stations and compressor and meter facilities), mooring facilities to port and terminal construction and development. We work closely with project management and engineering consultants to develop the legal framework for the design, procurement, installation and construction of such facilities.

Project management support

We can use our extensive experience to help you minimise the risk of disputes in your projects, anticipate problems and plan ways to minimise their impact.

We offer the following services:

- Assisting throughout the tendering process, from pre-qualification through to bid award, providing support and guidance every step of the way.
- Reviewing and discussing with you your draft contract wording before it is signed. We can provide a risk matrix, with comments and suggestions for revisions or additions during negotiations. We know about the practical problems that will crop up and we know how to address them.

- Advising and assisting with the drafting and qualification of construction and sale contracts (whether on EPC, EPCI, EPCIC, BOT or conversion basis), operational contracts (bareboat charters, leases, services and O&M contracts) and contracting arrangements such as framework and call-off contracts. A number of our team have spent time working in house with contractors to gain face-to-face experience of the commercial development and negotiation process. Many of the team have spent prolonged periods in yards working on disputes. We have also developed our own detailed contracting baselines focusing on risk apportionment between contractor and company on knock-for-knock, indemnities, liability caps and pollution regimes. Our offshore practice working for contractors, drillers and junior oil allows us to be at the leading edge of developments on crucial contracting issues and principles.

- Assisting with associated activities. As well as contracts related to offshore units, we also work with clients on associated contracts including FEED contracts, SURF and subsea arrangements, sub-contracts and purchase orders, shipyard services arrangements and the full BIMCO suite of contracts for other operational matters. A full service finance capability covering asset, project and structured finance solutions. We assist contractors and banks in putting in place financing arrangements and we are a panel firm for a number of the major banks working in the offshore field. We have recently acted on a number of major syndicated financings for contractor and bank clients and also assist in contractual due diligence and risk analysis exercises.

- We have a dedicated insurance team who advise on political risk, H&M, war – including piracy - K&R and CAR insurances. Our specialist political risk team can also assist our clients in structuring their projects to take advantage of the most effective Bilateral Investment Treaties available. We also work closely with the offshore syndicates in each of the P&I Clubs and advise on personal injury, hijack and hostage situations.
• Helping you to brief your project team on how the contract will work in practice and what specific administration procedures will be required by the contract. Together with you, as part of your risk management, we can brief your team on the contents of the contract after it has been signed. We give guidance on how they can operate its terms during the project. We can also provide a concise manual summarising the key contents of the contract and, where appropriate, a check list for ease of reference throughout the project. This can be a good investment to help reduce the risk of substantial legal costs later. A clear contract scheme and a good briefing can save time and streamline your work.

• Advice and support during the project to tackle issues early to minimise impact and resolve issues amicably to best advantage.

• Reviewing and advising on project correspondence, strengths and weakness of your position on contractual issues.

• We can assist with the evaluation, review, preparation, negotiation and management of claims including delay and disruption claims, variations or change orders, defective design, engineering or construction, cost overruns, disruption, acceleration, defective work, guarantee and warranty claims, sub-contractor disputes, business interruption, and accidents or failures causing loss of life and injury as well as property damage. We will review all of the evidence, advise on an appropriate strategy and identify available options resulting in practical solutions. We provide, at the earliest possible opportunity, objective assessments of the strengths, weaknesses, opportunities and threats that exist in all claim situations. We help clients effectively assess risk and achieve the best possible commercial solution.

• We can provide experienced lawyers as secondees to enhance the contract administration or legal teams as required.

• When problems occur our world-renowned dispute resolution teams are there to help. Our litigators have successfully resolved numerous big-ticket disputes in various court and arbitration forums and jurisdictions around the world. Our aim is to assist you to resolve disputes in the quickest and most commercially advantageous manner. We have lawyers in each of our offices who are experienced in all forms of dispute resolution process (court, arbitration – ICC, LCIA, DIAC, SIAC, etc – and mediation).

• Tailored in-house training, seminars and workshops.

Our pricing

We adopt an open and commercial approach to pricing. Our priority is to provide a range of pricing and billing options and to work with you to put in place an arrangement that meets your requirements and which addresses issues such as certainty of pricing, flexibility and value creation. We are happy to discuss pricing options in respect of any matter on which you wish to instruct us, including fixed fees, hourly rate based arrangements including cap and collar, abort fees, success, or conditional fee arrangements and volume pricing.
Offshore construction experience

Offshore constructions:

- Advising a major Chinese state owned shipyard in connection with one of the first ultra-deepwater drilling rigs to be built in China.

- Advising in connection with the construction and operation of semisubmersible accommodation vessels and crane platforms being built in China.

- Advising a major Chinese state owned shipyard in connection with the construction of an FPSO which involved a multinational bankruptcy of the buyer.

- Advising the buyer from a major Chinese state owned shipyard in connection with two building contracts for self-elevating wind turbine installation crane vessels.

- Advising the buyer in relation to a drilling rig being constructed in a Chinese yard.

- Acting for a European owner on the purchase of a semi-submersibles to be constructed at a Chinese shipyard, with a value of approximately US$200 million, financing of approximately US$120 million.

- Acting for a European owner on the purchase of two LPG newbuildings to be constructed at a Chinese shipyard, with a combined value of approximately US$100 million.

- Advised buyers on the impact on contracts of problems with the jacking systems on rigs built in China.

- Acting for a large PRC offshore energy entity in the resale purchase of two specialised support vessels under construction at a PRC shipyard.

- Advising buyers on potential action against a state owned yard for defective work on a rig under construction.

- Negotiation of various addenda to shipbuilding contracts for PSVs at a Chinese yard as result of delays in the completion of the construction.

- Major dispute involving the design and construction of a FPSO by a Far Eastern shipyard for Norwegian/US owners. In addition to reviewing numerous design issues in connection with alleged claims against the shipyard, whom we represented, we reviewed and advised on the scope of insurance cover for design defects under the builder’s All Risks (CAR) insurance.

- Advice on a design flaw in a wellhead, resulting in a blowout on an offshore installation.

- Advising a major oil company on flaws in the design of a pipeline system, which resulted in buckling of the pipeline itself, leading to claims against a contractor.

- Advising an offshore drilling contractor on disputes involving modifications to the design of drillships, resulting in alleged delay and disruption.

- Arbitration of alleged warranty defect claims for two of the world’s largest semi-submersible units.

- Acting for a leading offshore construction company in an arbitration brought in respect of delay and disruption claims arising out of the late completion of production topsides at the fabrication yard. There were further issues of defective work and the analysis of a best endeavours obligation to establish whether the yard had a right to pursue a claim.

- Advising the builders of a number of semi-submersible drilling rigs in relation to multiple disputes with their clients regarding delays in the completion of the rigs, the builder’s entitlement to additional time and money for the project arising from changes requested by the client and general conduct of the client which contributed to the overall delays and the alleged non-conformity of the rigs with certain of the construction specifications.

- Advising a leading offshore construction company in relation to issues with a shipyard following refurbishment of a drilling rig in circumstances where the yard’s sub-contractors were unpaid and were seeking redress legally, and through the media, against the rig and our drilling contractor client.
- Advising a Canadian independent operator on an FPSO charter contract for development off Tunisia.
- Advising the largest FPSO operator in the North Sea on the terms of an FPSO lease and operation maintenance services agreement with a petroleum company for the Western Isles Development Project.
- Acted for a large FPSO contractor, based in Asia, on a multi-million dollar dispute with a subcontractor who was to fabricate topside process modules of an FPSO, the dispute involved numerous issues as to delay and alleged disruption, variation claims, liquidated damages and warranty defects.
- Acting as international counsel in relation to claims of physical damage to hydraulic cores within the umbilical of the subsea system of an FPSO.
- Acting on a multi-million dollar claim against a major Japanese construction company by the purchaser of an FPSO in respect of alleged defects.
- Advising on the purchase of a fleet of Aframax tankers for conversion into FPSOs, also advising on the conversion and subcontracts.
- Acting in a potential US$1 billion insurance claim under a CAR policy covering the construction of a mobile offshore production unit.
- Acting for a German engineering company following the cancellation, as a result of delays in construction, of two offshore support vessels constructed in India involving claims for refunds. The case has been successfully arbitrated in London and has then involved cross border enforcement and injunctive proceedings in which an attempt has been made to injunct the purchaser from pursuing claims against the refund guarantor bank.
- Advising and representing GlobalSantaFé, the owners, in international London arbitration in relation to disputes arising out of delay and extra costs for the building of two major drill ships at Harland & Wolff in Belfast.
- Acting is US$33 million dispute for shipyard in relation to liquidated damages under contracts for the construction of two semi-submersible drilling vessels.

**Floating Production Storage and Offloading Units (FPSOs):**

- Negotiated and drafted a joint venture and 10 year operation contracts for the owners of two FSOs (one for LPG and the other for crude) to be jointly operated on marginal oil fields off Indonesia, this included working on the pre-bid, bid and post-award negotiation and drafting phases in Jakarta as well as dealing with the off-shore supply and tugging, hook-up and FEED contracts.
- Advising contractor/OIM on operation and maintenance contract for FPSO operations off Brazil.
- Advice to a supplier of facilities and services for the development and production of offshore oil and gas fields on a FPSO EPC contract including contract qualification and drafting.
- Drafting and qualification of EPC and EPIC contracts and leases for FPSOs for North West Shelf Australia, offshore Brazil and the Gulf of Guinea.
- Advising on the purchase of a fleet of Aframax tankers for conversion into FPSOs, also advising on the conversion and subcontracts.
- Acting for the owner and operator of a FPSO operating in Australian waters in relation to claims arising against insurers following damage to the umbilical.
- Acting for the owner and operator of a FPSO in relation to a claim against a major oil company arising from damage to the topsides equipment of the FPSO due to the well product being outside specification.
- Advising an independent oil company on a project with a contractor for the conversion of a tanker to an FPSO for operation in offshore Africa.
- Advising an independent Canadian oil and gas company on the purchase and registration of a FPSO from a major Australian operator.
- Acting for an oil service contracting company in connection with the security aspects of a US$75 million bond issue to finance an FPSO conversion and the acquisition of FPSO equipment packages.
• Advising financing banks on subsea procurement and installation contracts, FPSO conversion contract, FPSO charter contract, operation and maintenance contract and ancillary contracts for development off India.

• Representing the arrangers of a $175 million loan facility financing a floating production unit.

• Providing advice to operators on the pollution limitation regimes applicable to the operation of FPSOs offshore Brazil and Indonesia.

• Advice to operators in respect of force majeure and termination issues relating to UAE conversion yard labour shortages for an FPSO project.

• Advising in respect of hijack and hostage issues relating to FPSOs operating in the Gulf of Guinea.

• Advising a leading provider of marine transportation in respect of obligations to complete the conversion of a tanker into a FPSO and deliver it to the field operator subsequent to a major well blow-out in Australian waters and expected delays in well completion of between 12 and 24 months.

• Acting in a multi-million dollar claim by the purchaser of an FPSO against a major Japanese construction company in respect of alleged defects.

• Advised in a dispute involving the design and construction of an FPSO.

• Acting for the main FPSO contractor in a multi-million dollar dispute with a subcontractor who was to fabricate topside process modules of a FPSO. The dispute involved numerous issues as to alleged delay and disruption, variation claims, liquidated damages and warranty defects.

• Four major disputes involving the design and construction of FPSOs in Singapore and Europe.

Recent newbuilding and conversion contract disputes include:

• Adyard Abu Dhabi v SD Marine Services: acted on behalf of the buyers in connection with cancellation of shipbuilding contracts. This has become a leading case on the application of the prevention principle and its effect on the buyers contractual right to rescind following excessive delay.

• Kookmin Bank v Rainy Sky: successfully acted on behalf of the purchasers (and their assignees) of a number of newbuildings which were due to be built at the Jinse shipyard in Korea, in respect of claims under refund guarantees provided by the Kookmin Bank. The case went to the Supreme Court, which found in favour of the purchasers and their assignees.

• Inta Navigation & Others v Ranch Investments: acted on behalf of the buyers in connection with the correct interpretation of the clause in a contract for sale of a ship under construction.

• BW Gas v JAS Shipping: acted on behalf of BW Gas in connection with a dispute relating to the charterparty for a newbuild which referred to specifications and the building contract.

• Wuhan Guoyu Logistics Group v Emporiki Bank of Greece: acted on behalf of the Greek bank to which a refund guarantee was assigned by the buyer in connection with claims under the guarantees. The case is a leading case on the interpretation of refund guarantees which, in this case, was an on demand guarantee.

• Guangzhou Dockyards Co Ltd v ENE Aegiali: acting for owners in relation to their claim against a shipyard for wrongful repudiation of a contract for conversion of a VLCC to a VLOC. Owners obtained an award in their favour for sums in excess of US$70 million and succeeded in resisting an attempt by the yard to appeal the award on questions of fact.

• BMBF v Harland & Wolff: acted for the owners in connection with the dispute with Harland & Wolff. Arising out of construction of a drill ship after the yard defaulted. The case is quoted as a leading case on the owners entitlement to take possession of the vessel and complete it elsewhere.
• Stocznia Gdanska v Latvian Shipping Co & Others: acted on behalf of the shipyard in connection with the buyers default. This is one of the leading cases relating to the builders entitlement to rescind the contract, repudiatory breach and wrongful interference with the contract.

• Stocznia Gdanska v Gearbulk Holdings: acted on behalf of the buyers in connection with the termination of shipbuilding contracts. This is a leading case on the buyers entitlement to cancel pursuant to the contract and/or for repudiatory breach, entitlement to claim under the refund guarantee and also damages.

• Acted for a China state-owned conglomerate on a shipbuilding dispute and refund guarantee matter against a shipyard in Nanjing. The matter was in regard to quality issues, and involved English, Hong Kong and Chinese law.

• Instructed by a major shipping company in the Netherlands and a major bank in Netherlands (as assignee) in relation to the cancellation of four newbuilding contracts for 3,500 tons general cargo ships between the clients and Chinese builder and trading house. The disputes on the cancellation of two contracts of four were submitted for SIAC arbitration in accordance with English law. The value of the dispute was €24.8 million.

• Instructed by shipbuilder clients in a case concerning a dispute on the cancellation of the shipbuilding contract. The dispute was submitted for London arbitration. The value of the dispute was US$20 million.

• Acted for the buyer of two vessels in respect of the cancellation of shipbuilding contracts for seller’s delay. Buyers are seeking the refund of the multi-million dollar instalment payments under the refund guarantees. This is subject to London arbitration and the dispute amounts to US$40 million.

• Acting for clients seeking refund of instalment payments under refund guarantee for cancellation of shipbuilding contract due to seller’s delay. The value of the dispute amounts to over US$10 million.

• Acting for a tanker owner in connection with cancellations of newbuild vessels at Chinese yards and for Turkish yards in connection with newbuilding cancellations.

• Advising on a US$29 million dispute for owners against a Singapore shipyard in relation to the conversion of a ro-ro vessel to a cattle carrier.

• Representing Greek owners on disputes with a Korean shipbuilder in relation to the construction of four tankers.

• Advising Finnish owners on delay and cost overruns on four contracts with Polish yards.

• Acting against Korean yards in respect of technical problems with a series of combination carriers and Aframaxes, Spanish yards in respect of chemical/gas carriers, a Polish yard in respect of bulk carriers and an English yard in respect of conversion to a chemical tanker.

• Legal proceedings against a classification society in connection with a new building.

• Representing underwriters in connection with alleged technical defects in gas ships.

• Acting for Turkish Buyers of two newbuildings with potential claims against the Bulgarian Yard in excess of US$80 million.

• Acting for the owners of a tanker newbuild who contracted with a Chinese Shipyard for the building of a Suezmax tanker and then contracted to on-sell the tanker on delivery by the shipyard to Buyers under an MOA. Buyers refused to take delivery due to various alleged deficiencies in the construction of the vessel and our clients are pursuing a claim in London arbitration for in excess of US$25 million against the Buyers for wrongful refusal to take delivery of the vessel.

• Handling guarantee claims on seismic vessels in respect of badly wired generators.
Recent accidents and other contentious matters include:

- Court proceedings commenced by owners following the total loss of a vessel which capsized after the removal of shell plating. The case involved issues as to whether the yard was negligent and whether the owners or the yard should have taken steps to check the stability of the vessel.

- Defending property, loss of life and personal injury claims arising from fires and explosions on vessels under repair and construction.

- Acting in connection with substantial structural damage and misalignment to a bulk carrier in a Singapore drydock.

- Dealing with claims arising from an escape of oil from a vessel in drydock resulting in pollution to Hong Kong harbour and fish farms.

- Advising underwriters in relation to coverage issues in relation to yard’s claims for direct damage, business interruption and extra expense following damage to the yard’s property.

- Representing liability underwriters of contractors facing claim from platform owners arising out of costs of rectifying alleged defective design.

- Advising owners of a 5,000 grt deep ocean survey and cable installation vessel following its collapse in drydock during survey.

- Claims against yards which negligently allowed vessels to topple over in drydock while being built and repaired resulting in damage to the vessels and consequential losses including the loss of the sale of the vessel.

- Acting for owners after their FSO conversion was struck by a tug prior to redelivery.

- Cases where a ship with bottom damage has spilt oil into a drydock when the dock has been drained and oil has been able to escape from damaged double bottoms involving issues as to responsibility for clean-up.

- Representing owners in a dispute over damages for delay and the applicability of a liquidated damages clause following repair works required as a result of an explosion.

- Claim against a yard for loss of use resulting from explosion caused by yard’s negligence whilst performing overhaul contract.

- Claims against charterers and yard for losses caused by fire at the yard whilst vessel repairing bottom damage for which charterers were responsible.
Recent newbuilding and conversion transaction include:

- Six multipurpose carriers and related financing: China.
- Two bulk carriers and related financing: China.
- Two 29,000 dwt chemical tankers: Korea.
- Two semi-submersible drilling rigs and related financing: Korea.
- Four Aframax vessels: Korea.
- VLCCs and Aframax vessels: Korea.
- Two 7,500 m³ LPG/Ethylene carriers: Italy.
- Ro-Lo cargo carrier: China.
- Bulk carrier: China.
- Re-sale contracts for Chinese newbuildings.
- Oil product and chemical tanker: Turkey.
- Three cruise ships: France.

- Luxury 900-cabin cruise ship: France.
- Ocean-going cable layers: Korea.
- Specialised ro-ro carrier for A380 components transport: China.
- Container vessels: Germany, the Netherlands and Poland.
- Cattle carrier: Singapore.
- Oceanographic research vessel: France.
- LPG and LNG vessels: Korea
- Long term time charters for eight proposed container ship newbuildings.
- Conversion of a ULCC to an FSO for operations in the Middle East.
Our team

We are proud of the intimate knowledge we have of our clients. This comes through time spent in their offices and on project sites, wherever these may be. This first-hand understanding ensures our advice is not only practical and tailored to the needs of our clients but takes account of any regional variations.

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