

NOVEMBER 2019

caevest

ARBITRATION PROCEEDINGS

CASE STUDY: GUMUSUT-KAKAP SEMI FPSO



Prepared by Eleanor Slade, Business Development Manager

www.caevest.com

SNAPSHOT:

High profile case to settle contractual disputes totalling \$245million for the construction of the Gumusut-Kakap Semi-Floating Production System (Semi-FPS), which is for crude oil production.



BACKGROUND TO THE CASE

Caevest were recommended to MISC by one of Singapore's leading law firms to support the legal proceedings which were initiated by the major oil and design company MISC's wholly owned subsidiary GKL against Oil Major Shell's wholly owned SSPC to seek resolution on contractual disputes covering claims for outstanding additional lease rates, payment for completed variation works and other associated costs under the contract.

This case took approximately eighteen months from initial filing to the full Tribunal hearing in Kuala Lumpur, requiring long-term commitment from our consultants with crucial work taking place in several locations including Kuala Lumpur, Singapore and London.



INITIAL STAGES

SSPC refuted both notices that were filed at the end of 2016 and made serious allegations that the unit was delivered late with incomplete and substandard workmanship. GKL filed a notice of adjudication and notice of arbitration against SSPC.

Our consultants were employed as Technical Experts. Caevest's brief was in relation to construction, completion and commissioning. We were tasked with reviewing documentation from both sides and present an independent opinion.

These independent desktop reviews were primarily undertaken at Caevest offices.

Following publication of our internal reports, our technical experts were invited to participate in crucial meetings with our clients in Kuala Lumpur. Caevest's senior consultant was then appointed as Lead Technical Expert with responsibilities for Construction, Completion and Commissioning aspects, with another consultant becoming responsible for design and managerial issues.

REVIEW PROCESS

During the review process, submissions of our reports were made via our legal team. They were presented to the tribunal along with submissions from the Oil Company's representatives. Due to the scope and complexities of the issues it was decided by the Tribunal to narrow the focus of the arbitration case down to twenty major items which were allocated into four categories:

- a) Preservation
- b) Design Errors
- c) Faulty Equipment/Materials
- d) Construction/Completion
- e) Start Up Readiness

During the process, additional specialized expert consultants were engaged. We briefed and directed them on the specific areas that required opinions and incorporated them into our final submissions.



THE TRIBUNAL HEARINGS

The tribunal, recognizing the scale and complexity of technical evidence asked that we meet regularly with the consultants engaged by the Oil Company. Through these meetings we were able to discuss the issues and find areas of agreement (or disagreement). These daily meetings were conducted by video conferencing or face-to-face meetings in Singapore. Depending on the issue to be discussed it was essential to plan carefully to ensure the right consultant with the relevant expertise was available. At the end of this intense process we developed a final report that was submitted to the tribunal.



Image courtesy Gumusut-Kakap Global Shell

OUTCOMES

The Tribunal took place in Kuala Lumpur lasting three weeks in February 2019. Caevest, throughout the whole process followed the brief - to assist the tribunal, be unbiased and truthful. Caevest's technical experts attended the hearing each day to support our clients. Caevest's Lead experts were called to be a witness on the stand for five separate days, including being in the box along with each of the specialist experts to support them. During the Tribunal our experts were 'Hot Tubbed' with the Lead Experts from the opposing party and interrogated by the tribunal on specific issues in respect to disagreements in our report and on the evidence.

The arbitral award is expected to be issued in 2020.