



# Foresight

## Back to the Future

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Is there anyone out there like me and old enough to remember CRINE (Cost Reduction in the New Era)? CRINE was an initiative of industry, the government and the unions prompted by the fall of the oil price in the early 1990's – it reached a low of less than \$14 in 1994. Adjusting for inflation, apparently the fall was more significant than the one we are currently experiencing and there was broad recognition that there had to be a paradigm shift in methods of operating in order to reduce capex and opex by at least 30%. By the time I joined the industry at the end of that decade the price had recovered somewhat to around \$25 but the initiative had produced:

- a set of functional specifications (designed to allow innovation and avoid bespoke solutions);
- the CRINE contracts (now known as LOGIC and still well used in the UKCS) to reduce the time spent in contract negotiation;
- the FPAL (First Point Assessment) database to eliminate time-consuming pre-qualification exercises.

Many arrangements for sharing of resources between operators also started at this time whether this related to flights, rigs, supply boats or data.

It seems we are now in the 'New New Era' – and we need to go back to the lessons of the past which the high oil price of the last few years has allowed us to forget. Oil & Gas UK workgroups are developing many ideas for increasing efficiency and reducing costs while operators and contractors have been sharing their individual and collective initiatives at industry conferences – everything from standardising valve sizes to streamlined work order processes to 'hackathons' to develop innovative solutions for intractable problems.

What can the legal profession offer the supply chain? First, we all have to take a good hard look at ourselves and admit we are part of the problem. How many of us are prepared to propose the 80:20 solution of a standard contract rather than reach for the special conditions? How many have asked for amendments based on style rather than substance? How many of us when drafting start with an extreme position in the expectation that we will have to give much of it away in a tedious negotiation rather than starting with the position we all know we will end up with?

Second, clients (internal or external) should recognise that this is a joint effort and if 'fit for purpose' solutions are going to be developed these are going to involve accepting somewhat more risk than they may have been prepared to accept when times were good – a lawyer cannot cut the length of a contract or its negotiation time and still protect against every conceivable risk and clients will need to work with their lawyers to determine what level of risk is acceptable. Buyers and sellers need to share the responsibility on this.

Finally, we need to think back to the partnering, alliancing and gainsharing concepts of the 1990's which CMS's current Senior Partner, Penelope Warne, pioneered when she first established the CMS Aberdeen office back in 1993. Many of these arrangements were highly successful, and allowed projects to go ahead which the old model of contracting would not have allowed. If we are truly to embrace collaborative working then we must return to those principles of transparency and a sharing of pain and gain. Collaborative working was achieved through real win/win scenarios. Faster projects meant quicker first oil for the operator and increased payments for contractors. Typically downside, 'painshare' risk was capped, and minimum conditions of satisfaction were stated, but it was recognised that complex incentive schemes would give rise to commercial disputes so dispute resolution was also addressed, often with a three stage process of informal dispute resolution leading to CEOs as the ultimate decision makers, to keep disputes away from the courts.

Alliancing contracts take more time to negotiate than typical supply contracts and so perhaps make the most sense in the context of strategic relationships, particularly on a global scale or for major projects. If companies are to move beyond the 'knee-jerk' approach of simply cutting costs, to looking for ways of working better together – which may involve 'investing to save', spending more in some areas to achieve savings in other areas or to improve output or reduce downtime – then companies need to learn to trust each other. That's an easy thing to say but much harder to do. Contracts which give both parties an incentive to achieve the right outcomes are the best way to allow that trust to develop.

This is the sixth Foresight article in our Transformation series looking at the future of North Sea Oil and Gas. Discussing various issues from technology to employment and disputes, our sector experts offer their commercial opinions on the future of the industry. Please feel free to forward this Foresight to a colleague or to subscribe to our mailing list here [CMSEmployment.Team@cms-cmck.com](mailto:CMSEmployment.Team@cms-cmck.com).

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