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TORCH OFFSHORE INC
Form 8-K
April 22, 2003

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange
Act of 1934

Date of Report (Date of earliest event reported): April 22,
2003 (April 15, 2003)

Commission File Number: 000-32855

TORCH OFFSHORE, INC.
(Exact Name of Registrant as Specified in its Charter)

Delaware (State or Other Jurisdiction of Incorporation or Organization)	74-2982117 (IRS Employer Identification No.)
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401 Whitney Avenue, Suite 400 Gretna, Louisiana (Address of Principal Executive Offices)	70056-2596 (Zip Code)
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Registrant's Telephone Number, Including Area Code:
(504) 367-7030

ITEM 5. OTHER EVENTS AND REQUIRED FD DISCLOSURE.

On April 15, 2003, Torch Offshore, Inc. (the "Company") issued a press release announcing that substantially all of the conditions required for the conversion contract for the conversion of the Midnight Express, entered into with Davie Maritime Inc. of Quebec, Canada, through its subsidiary, Torch Express, L.L.C., to become effective have been satisfied. The remaining conditions to be satisfied are the closing of the Company's \$60.0 million financing with Regions Bank and Export Development Canada (EDC) to fund the conversion of the Midnight Express and the issue by Investissement Quebec of the required performance bond. The Company expects that these conditions will be satisfied soon.

A copy of the Company's press release announcing the above is filed as an exhibit to this Form 8-K and is incorporated herein by reference.

ITEM 7. FINANCIAL STATEMENTS, PROFORMA FINANCIAL
INFORMATION AND EXHIBITS.

- (a) Not applicable.
- (b) Not applicable.
- (c) Exhibits.

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The following exhibits are filed herewith:

Exhibit No.	Description
99.1	Press release dated April 15, 2003.
99.2	First Amendment to the Conversion Contract dated December 3, 2002 between Davie Maritime, Inc. as Builder, and Torch Express L.L.C., as Owner
99.3	Second Amendment to the Conversion Contract dated December 3, 2002 between Davie Maritime, Inc. as Builder, and Torch Express L.L.C., as Owner
99.4	Third Amendment to the Conversion Contract dated December 3, 2002 between Davie Maritime, Inc. as Builder, and Torch Express L.L.C., as Owner
99.5	Fourth Amendment to the Conversion Contract dated December 3, 2002 between Davie Maritime, Inc. as Builder, and Torch Express L.L.C., as Owner
99.6	Fifth Amendment to the Conversion Contract made as of December 3, 2002 between Davie Maritime, Inc. a company organized and existing under the laws of Canada, and Torch Express L.L.C., a company organized and existing under the laws of Louisiana
99.7	Parent Company Guarantee to Davie Maritime Inc. from Torch Offshore, Inc.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

TORCH OFFSHORE, INC.

By: /s/ ROBERT E. FULTON

Date: April 22, 2003

Robert E. Fulton
Chief Financial Officer

INDEX TO EXHIBITS

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99.4	Third Amendment to the Conversion Contract dated

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Established in 1978, Torch Offshore, Inc. is involved in offshore pipeline installation and subsea construction for the oil and natural gas industry. Torch Offshore, Inc. is expanding beyond its established shallow water niche market in order to serve the industry's worldwide growing needs in the deep waters.

Any statements made in this news release, other than those of historical fact, about an action, event or development, which the Company hopes, expects, believes or anticipates may or will occur in the future, are forward-looking statements under the Private Securities Litigation Act of 1995. The forward-looking statements in this news release include statements about the modification and/or conversion timing and cost of the Midnight Express, the capabilities of the Midnight Express, the Company's ability to use its capital resources for the conversion of the Midnight Express, and the timing for completion of the conversion financing. Such statements are subject to various assumptions, risks and uncertainties, which are specifically described in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2002 filed with the Securities and Exchange Commission, as well as other factors that may not be within the Company's control, including, specifically, oil and natural gas commodity prices, weather conditions and offshore construction activity levels. Although the Company believes its expectations are based on reasonable assumptions, it gives no assurance that the Company's assumptions and projections will prove to be correct. Actual results may differ materially from those projected.

EXHIBIT 99.2

FIRST AMENDMENT TO THE CONVERSION CONTRACT dated December 3, 2002 between DAVIE MARITIME, INC., as Builder, and TORCH EXPRESS L.L.C., as Owner

WHEREAS:

- A. Article 29.4 provides that the Conversion Contract will become null and void at the expiry of 90 days after its date of execution unless by such date specified conditions have been either satisfied or waived; and
- B. The parties wish to extend such date.

WITNESSETH that the parties have agreed as follows:

- 1. The figure "90" where it appears in Article 29.4 of the Contract is hereby deleted and replaced with the figure "106".
- 2. The Contract is in all other respects is hereby confirmed.

IN WITNESS WHEREOF the parties have caused this First Amendment to the Contract to be signed by their duly authorized signatories as of March 3, 2003.

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DAVIE MARITIME INC.

By: /s/ Richard Bertrand

Richard Bertrand

TORCH EXPRESS L.L.C.

By: /s/ Lyle Stockstill

Lyle Stockstill

EXHIBIT 99.3

SECOND AMENDMENT TO THE CONVERSION CONTRACT dated December 3, 2002 between DAVIE MARITIME, INC., as Builder, and TORCH EXPRESS L.L.C., as Owner

WHEREAS:

- A. Article 29.4 as amended provides that it will become null and void at the expiry of 106 days after its date of execution unless by such date specified conditions have been either satisfied or waived; and
- B. The parties wish to extend such expiry date further.

WITNESSETH that the parties have agreed as follows:

- 1. The figure "106" where it appears in Article 29.4 of the Contract as amended is hereby deleted and replaced with the figure "111".
- 2. The Contract is in all other respects hereby confirmed.

IN WITNESS WHEREOF the parties have caused this Second Amendment to the Contract to be signed by their duly authorized signatories as of March 19, 2003.

DAVIE MARITIME INC.

By: /s/ Richard Bertrand

Richard Bertrand

TORCH EXPRESS L.L.C.

By: /s/ Lyle Stockstill

Lyle Stockstill

EXHIBIT 99.4

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THIRD AMENDMENT TO THE CONVERSION CONTRACT dated December 3, 2002 between DAVIE MARITIME, INC., as Builder, and TORCH EXPRESS L.L.C., as Owner

WHEREAS:

- A. Article 29.4 as amended provides that it will become null and void at the expiry of 111 days after its date of execution unless by such date specified conditions have been either satisfied or waived; and
- B. The parties wish to extend such expiry date further.

WITNESSETH that the parties have agreed as follows:

- 1. The figure "111" where it appears in Article 29.4 of the Contract as amended is hereby deleted and replaced with the figure "120".
- 2. The Contract is in all other respects hereby confirmed.

IN WITNESS WHEREOF the parties have caused this Second Amendment to the Contract to be signed by their duly authorized signatories as of March 24, 2003.

DAVIE MARITIME INC.

By: /s/ Richard Bertrand

Richard Bertrand

TORCH EXPRESS L.L.C.

By: /s/ Lyle Stockstill

Lyle Stockstill

EXHIBIT 99.5

FOURTH AMENDMENT TO THE CONVERSION CONTRACT dated December 3, 2002 between DAVIE MARITIME, INC., as Builder, and TORCH EXPRESS L.L.C., as Owner

WHEREAS:

- A. Article 29.4 as amended provides that it will become null and void at the expiry of 120 days after its date of execution unless by such date specified conditions have been either satisfied or waived; and
- B. The parties wish to extend such expiry date further.

WITNESSETH that the parties have agreed as follows:

- 1. The figure "120" where it appears in Article 29.4

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of the Contract as amended is hereby deleted and replaced with the figure "128".

2. The Contract is in all other respects hereby confirmed.

IN WITNESS WHEREOF the parties have caused this Second Amendment to the Contract to be signed by their duly authorized signatories as of April 2, 2003.

DAVIE MARITIME INC.

By: /s/ Richard Bertrand

Richard Bertrand

TORCH EXPRESS L.L.C.

By: /s/ Lyle Stockstill

Lyle Stockstill

EXHIBIT 99.6

FIFTH AMENDMENT TO THE CONVERSION CONTRACT made as of December 3, 2002 between DAVIE MARITIME INC., a company organized and existing under the laws of Canada whose registered office address is 22 George D. Davie Rd., Levis, Quebec G6V 8V5 in the city and judicial district of Quebec, Province of Quebec, represented by Mr. Richard Bertrand, duly authorized to act hereunder, as he so states (the "Builder"), and TORCH EXPRESS L.L.C., a company organized and existing under the laws of Louisiana whose registered office address is 401 Whitney Ave., Gretna, LA 70056 USA. (the "Owner").

WHEREAS:

1. Builder and Owner are parties to a Conversion Contract dated December 3, 2002 which was amended effective March 3, 19, 24 and April 2, 2003.
2. The parties wish to amend the Conversion Contract as so amended (the "Amended Contract") as provided herein.

WITNESSETH that the Builder and Owner have agreed as follows:

1. The definition of "Contractual Re-Delivery Date" is hereby amended to read as follows: "Contractual Re-Delivery Date" means the date which is 357 days after January 3, 2003, as extended by the duration of any one or more periods of Permissible Delay; provided that Owner shall have authorized in writing the performance by Builder, during the period commencing with the Contract Signing Date (notwithstanding that the Contract shall not have become effective), of that portion of the Work specified by Builder in its letter to Owner dated November 27, 2003."
2. Article 6 of the Amended Contract is hereby amended by adding at the end thereof the following:

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"Each invoice delivered by Builder to Owner shall include a certificate to be signed by Builder's chief executive officer or chief financial officer addressed to Owner and the lenders referred to in Article 4.6(a), in form and substance satisfactory to Owner, certifying to the effect that, except as may be set forth therein, (a) Builder has made full and timely payment for all labour, services, materials and equipment provided by employees, suppliers, subcontractors, agents and governments in connection with the Work or the Ship (except amounts the payment of which is being disputed in good faith by Builder); and (b) to the best knowledge and belief of the person signing such certificate no employee, supplier, subcontractor, agent or government has filed any claim for a Lien (as defined in Article 4.6(a)) against the Work or the Ship arising out of the provision of any labour, services, materials or equipment in connection with the Work or the Ship. Owner shall not be obligated to pay an invoice unless it is accompanied by such certificate."

3. Article 9.7 of the Amended Contract is hereby deleted and replaced with the following:

"9.7 In the event that the date on which Re-Delivery of the Ship takes place (the "Actual Re-Delivery Date") occurs on or before November 19, 2003 (as extended by the duration of any one or more periods of "Permissible Delay", the "Bonus Re-Delivery Date"), Owner shall pay Builder a daily bonus based on the number of days by which the Actual Re-Delivery Date is earlier than the Bonus Re-Delivery Date less a grace period of seven (7) days, determined as follows:

(a) if the Actual Re-Delivery Date occurs within seven (7) and seventeen (17) days before the Bonus Re-Delivery Date, \$12,500 for each day by which the Actual Re-Delivery Date is earlier than the Bonus Re-Delivery Date, and

(b) if the Actual Re-Delivery Date occurs more than seventeen (17) but less than thirty-one (31) days before the Bonus Re-Delivery Date, \$17,500 for each day by which the Actual Re-Delivery Date is earlier than the seventeenth (17th) day before the Bonus Re-Delivery Date, and

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(c) if the Actual Re-Delivery Date occurs more than thirty (30) days before the Bonus Re-Delivery Date, \$25,000 for each day by which the Actual Re-Delivery Date is earlier than the thirtieth (30th) day before the Bonus Re-Delivery Date;

provided, however, that the maximum amount payable by Owner to Builder by way of bonus under this Article 9.7 shall not exceed five per cent (5%) of the Contract Price as amended from time to time."

4. The following is hereby added as Article 9.8 of the Amended Contract:

"9.8 Should ice formation on the St. Lawrence Seaway, prevent the safe operation of the Ship, the delays incurred by the Builder to proceed with the performance of Sea Trials or preventing the departure of the Ship to perform Sea Trials or its return after Sea Trials, shall constitute a period of Permissible Delay. In as much as ice formation should only delay the safe return of the Ship to the shipyard after Sea Trials, the Owner may elect, once the Sea Trials are completed, to have the Remedial Work completed by the Builder in facilities other than the Yard. If such an election is made by the Owner, all costs associated with the Remedial Work which are in excess of the cost for the Builder to complete the Remedial Work at the shipyard, shall be paid by the Owner. In the event the Owner elects to have Remedial Work completed by the Builder in facilities other than the Yard may also elect to take Re-Delivery of the Ship in the alternative facilities as opposed to the Yard as specified in Article 10.6 but always subject to all other portions of Article 10. "

5. Article 12.3(a) of the Amended Contract is hereby amended by adding at the end thereof the following:

"All policies to be maintained by Builder in accordance with Article 12.2(a) shall name Regions Bank, as Agent, as additional insured as its interests may appear."

6. Article 14 of the Amended Contract is hereby amended by adding at the end thereof the following:

"It is also understood and agreed that:

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(A) for the purposes of the parenthetical wording in Article 14.3(a) and the definition of Permissible Delay, neither the taking of any action by Samir or any other creditor of the Yard or any related assets, nor any change in the status of the Working Capital Facility Guarantee shall constitute a Force Majeure Event or Development; and (B) the rights and remedies of Owner under or pursuant to the Performance Bond are without limitation of the rights and remedies of Owner under or pursuant to the Contract."

7. Article 15.1 of the Amended Contract is hereby amended to add the following as the third sentence thereof:

"If Builder is in breach or default under this Article 15.1 and if the aggregate amount of such unpaid items is more than \$10,000, Owner shall, among other things, have the right to deduct the amount of any such unpaid items (whether or not a Lien has been asserted) from any payments due under the Amended Contract. Such deduction shall be valid until such time as, for each unpaid item, Builder (a) gives Owner an acquittance issued by any suppliers, subcontractors and/or workmen for such unpaid item in form and substance reasonably acceptable to Owner, (b) gives Owner further security protecting Owner, in such form and amount as Owner may reasonably require, against any claims against the Ship or the Owner that could be made by any suppliers, subcontractors and/or workmen for such unpaid item, or (c) establishes to the reasonable satisfaction of Owner that no claims against the Ship or the Owner could be made by any suppliers, subcontractors and/or workmen for such unpaid item."

8. The Amended Contract is in all other respects hereby confirmed.

IN WITNESS WHEREOF the parties have caused this Fifth Amendment to the Contract to be signed by their duly authorized signatories as of April 11, 2003.

DAVIE MARITIME INC.

By: /s/ Richard Bertrand

Richard Bertrand

TORCH EXPRESS L.L.C.

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By: /s/ Lyle Stockstill

Lyle Stockstill

EXHIBIT 99.7

April 11, 2003

Davie Maritime Inc.
22 rue George D. Davie
Levis, Quebec G6V 8V5

Midnight Express Conversion Contract

Gentlemen:

We refer to the Midnight Express Conversion Contract (the "Contract") dated December 3, 2002 made among you, as builder (the "Builder"), and our wholly-owned subsidiary, Torch Express L.L.C., as owner (the "Owner"), in respect of the conversion of the "Midnight Express" into a dynamically positioned pipe-laying vessel.

In consideration of your entry into the Contract, we hereby irrevocably and unconditionally guarantee to you that Owner will duly and punctually observe and perform all terms and conditions contained in and discharge all obligations required under the Contract.

This guarantee shall be a continuing guarantee and shall remain in force and effect until all obligations of Owner under the Contract have been fully and completely. Furthermore, we hereby consent, subject to notification, to any changes, extensions or adjustments of the Contract and agree that no such changes, extensions or adjustments shall discharge us from any liability herein in whole or in part.

We further represent, warrant and agree that:

- (a) our obligations as guarantor shall, without limitation, include the obligation to provide Owner with sufficient funds to cure any default promptly following the giving by you of any notice of default;
- (b) our obligations hereunder shall not be affected by any act, omission, matter or thing which might, but for this provision, operate to release or otherwise exonerate from our liabilities hereunder including without limitation:
 - (i) any time or waiver granted to Owner, or
 - (ii) any delay or omission on the part of yourselves in exercising any rights, powers or remedies available to you against Owner;
- (c) as provided in Article 20.2 of the Contract, we shall be a party to any arbitration conducted in accordance with such Article and, whether or not we exercise our right to participate in such arbitration, we shall be bound, as guarantor, by any award of the arbitrators and

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by the order of any court in Canada or the United States which is issued for the purpose of enforcing such award; and

- (d) this Guarantee has been duly authorized by all necessary corporate action and is our valid, binding obligation enforceable in accordance with its terms.

This guarantee shall be governed by and construed in accordance with the laws of the Province of Quebec and the laws of Canada applicable thereto.

The Owner, the Builder and ourselves confirm that it is their wish that this Guarantee, as well as any other documents relating to this Guarantee, including notices and demands, have been and shall be drawn up in the English language only. Les parties aux presentes confirment leur volonte que cette convention, de meme que tous les documents, y compris tous avis et demandes, soient rediges en anglais seulement.

Any notice hereunder shall be sent by post or fax (confirmed by registered mail) to ourselves at the address and fax number set out above.

TORCH OFFSHORE INC

/s/ Lyle G. Stockstill

Lyle G. Stockstill, Chairman of the Board of Directors