

**EXPLANATORY MEMORANDUM TO
THE PETROLEUM ACT 1998 (THIRD PARTY ACCESS) ORDER 2007**

2007 No. 290

1. This Explanatory Memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by command of Her Majesty. It contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 The Petroleum Act 1998 (Third Party Access) Order 2007 is an Order in Council to be made under section 189 of the Energy Act 2004 amending the Petroleum Act 1998, in order to give effect to parts of the 2005 Framework Agreement between the Government of the UK and the Government of the Kingdom of Norway concerning cross-boundary petroleum co-operation (“the Framework Agreement”). A copy of the Framework Agreement is attached.

2.2 The Framework Agreement requires the two governments to act jointly in resolving certain disputes regarding whether a pipeline owner has complied with the terms of an award of third party access rights to an offshore petroleum pipeline. The Petroleum Act 1998 requires amendment so as to allow the UK Government to act jointly with Norway in these cases.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Section 189 of the Energy Act 2004 provides a power for Her Majesty in Council to make any appropriate modifications to the Petroleum Act 1998 for the purpose of securing that effect is given to an international agreement to which that section applies. That section applies to an international agreement (whether entered into before or after the passing of the Act) that relates in whole or in part to the construction, operation, use, decommissioning or abandonment of a pipeline or offshore installation. The power to make an Order in Council is subject to the affirmative resolution procedure.

5. Territorial Extent and Application

5.1 This Order extends to the United Kingdom and applies to the Langedled South pipeline located on the UK sector of the continental shelf.

6. European Convention on Human Rights

- 6.1 The Parliamentary Under-Secretary of State for Energy, Lord Truscott, has made the following statement regarding Human Rights:

“In my view the provisions of the Petroleum Act 1998 (Third Party Access) Order 2007 are compatible with the Convention rights.”

7. Policy background

7.1 The Framework Agreement was signed on 4 April 2005, and contains numerous provisions relating to co-operation between the UK and Norway regarding the development and regulation of petroleum production and transportation facilities, and the resolution of disputes. The matters covered by the Agreement include health, safety and environmental matters, pipeline construction and operation, pipeline access and disputes, exploitation of trans-boundary oil and gas fields and dispute settlement.

7.2 In addition, the Framework Agreement provides specifically for the regulation of third party access to a pipeline known as the Langeled South pipeline, which runs from the Sleipner platform on the Norwegian continental shelf across the UK continental shelf to a terminal at Easington in the UK.

7.3 Specifically, the Agreement provides that the Norwegian regulated access system shall apply to the Langeled South pipeline, but that certain disputes shall be resolved jointly by the two governments. Article 2.7(1)(a) of the Agreement refers to “any dispute between the owner or operator of Langeled South and a shipper of Petroleum originating from the continental shelf appertaining to the United Kingdom as to whether or not the owner or operator of Langeled South has fully and properly complied with the terms and conditions laid down in the applicable regulated access system”. Article 2.7(2) provides that these disputes must be submitted simultaneously to both governments who shall resolve them jointly.

7.4 The draft Order is intended to give effect to these provisions. Under section 17F of the Petroleum Act 1998, as it currently stands, the Secretary of State is entitled to determine third party access to controlled petroleum pipelines, but he may not act jointly with the Norwegian authorities. The draft Order provides for third party access to pipelines such as Langeled South to be determined under the Norwegian system rather than the UK one, and for the Secretary of State to act jointly with the Norwegian authorities in determining disputes about whether the owner has complied with any such determination.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this Order since it does not place any financial burden on business.

9. Contact

9.1 Gill Campbell at the Department of Trade and Industry can answer any queries regarding the Order [email to: gill.campbell@dti.gsi.gov.uk]



Norway No. 1 (2006)

Framework Agreement

between the Government of the United Kingdom of Great Britain and
Northern Ireland and the Government of the Kingdom of Norway
concerning Cross-Boundary Petroleum Co-operation

Oslo, 4 April 2005

[The Agreement is not in force]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 2006*

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**FRAMEWORK AGREEMENT BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF THE KINGDOM OF NORWAY
CONCERNING CROSS-BOUNDARY PETROLEUM
CO-OPERATION**

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as “the United Kingdom Government”) and the Government of the Kingdom of Norway (hereinafter referred to as “the Norwegian Government”);

Referring to the Agreement of 10 March 1965¹ between the two Governments relating to the Delimitation of the Continental Shelf between the two Countries and the Protocol supplementary to it of 22 December 1978²;

Having regard to Article 4 of the said Agreement under which the two Governments have undertaken, in consultation with the licensees, to seek to reach agreement as to the manner in which trans-boundary reservoirs shall be most effectively exploited and the manner in which the proceeds deriving therefrom shall be apportioned;

Having regard also to the existing Agreements entered into between the two Governments relating to the joint exploitation of trans-boundary reservoirs and to the laying and operation of pipelines for transportation of petroleum produced from one side of the Delimitation Line to a destination on the other side of that line, listed in Annex E;

Mindful that submarine pipelines may be subject to special arrangements which may or may not contain provisions identical with relevant rules of general international law;

Affirming that the provisions of this Agreement will not prejudice the views of the Parties in the negotiation and conclusion of any future treaty;

Mindful of the initiative taken by Energy Ministers at the end of 2001 and the Pilot-Konkraft recommendations made in August 2002 in their report ‘Unlocking Value Through Closer Relationships’ to strengthen co-operation between the Kingdom of Norway and the United Kingdom in petroleum developments across the continental shelves appertaining to the two States;

Recognising that neither Government will impede the transportation of petroleum from one side of the Delimitation Line to the market on the other side of the Delimitation Line by means of any unfair, non transparent or discriminatory charge or in any other way, nor impose any requirements which have the practical effect of hampering such transportation;

Desiring to deepen further their co-operation with respect to petroleum cross-boundary projects and to achieve optimal exploitation of the petroleum resources on the continental shelves appertaining to the two States;

¹ Treaty Series No. 71 (1965) Cmnd 2757

² Treaty Series No. 31 (1980) Cmnd 7853

Recognising that to this end there is a need to secure proper sharing of information between the two Governments;

Have agreed as follows:

CHAPTER 1 GENERAL PRINCIPLES

ARTICLE 1.1

Scope

This Agreement shall apply to cross-boundary co-operation between the United Kingdom Government and the Norwegian Government with regard to Petroleum activities.

ARTICLE 1.2

Definitions

For the purposes of this Agreement:

“Authorisation” means any authorisation, consent, approval, Licence or permit issued under the law of either State, relating to the exploration and/or the Exploitation of Petroleum and/or the Construction and Operation of Installations and/or Pipelines;

"Construction and Operation" includes the design, fabrication, installation, laying, use, maintenance, repair and decommissioning of Installations and/or Pipelines but does not include access to Pipelines in accordance with Articles 2.4 to 2.7;

"Cross-Boundary Pipeline” means:

- (a) a Pipeline crossing the Delimitation Line transporting Petroleum from the continental shelf of one State to the continental shelf or the territory of the other State; or
- (b) a Pipeline transporting Petroleum and which is associated with a Trans-Boundary Reservoir, whether crossing the Delimitation Line or not, and where Licensees of both States of that Trans-Boundary Reservoir have a participating interest in that Pipeline;

but shall not include a Pipeline covered by an Agreement listed in Annex E;

"Cross-Boundary Project" means any of the following projects which are not covered by an Agreement listed in Annex E:

- (a) the Construction and Operation of a Cross-Boundary Pipeline;

- (b) the exploration for and/or the Exploitation of a Trans-Boundary Reservoir, including the Construction and Operation of an Installation for that purpose; and
- (c) a project making use of a Host Facility;

“Delimitation Line” means the line defined in the Agreement of 10 March 1965 between the two Governments relating to the Delimitation of the Continental Shelf between the two Countries and the Protocol supplementary to that Agreement of 22 December 1978;

"Exploitation" includes the appraisal, production, treatment and processing of gas or liquids from a reservoir and/or the injection, reinjection or storage of any substance used for or derived from the appraisal, production, treatment and processing of those gases or liquids;

“First Dry Gas Link” means the Pipeline which is the first one authorised to be constructed after the date of signature of this Agreement and which transports dry gas originating from the Norwegian regulated dry gas system into United Kingdom offshore Infrastructure, whether or not that Pipeline is an "inter-connecting pipeline" under the Framework Agreement signed at Stavanger on 25 August 1998;³

“Host Facility” means:

- (a) an Installation on one side of the Delimitation Line used for the exploration and/or Exploitation of a reservoir which is wholly on the other side of the Delimitation Line; and/or
- (b) an Installation used for the exploration and/or Exploitation of a Trans-Boundary Reservoir if the Installation is placed outside the Unit Area of that Trans-Boundary Reservoir; and/or
- (c) an Installation within a Unit Area which is used for the exploration and/or Exploitation of a reservoir outside that Unit Area;

“Infrastructure” means Installations and Pipelines;

"Inspector" means any person authorised by the competent authority of either State to carry out inspection activities relating to:

- (a) the Construction and Operation of any Infrastructure relating to a Cross-Boundary Project; or
- (b) any metering system relating to a Cross-Boundary Project;

“Installation” means any artificial island, structure or other facility for Petroleum activity, including drilling rigs, floating production units, storage units, flotel, well heads, intrafield Pipelines and intrafield cables, but excluding supply and support vessels, ships that transport Petroleum in bulk, other Pipelines and cables;

³ Treaty Series No. 9 (2003) Cm 5762

“Langeled South” means the part of the Langeled Pipeline starting at the downstream tie-in weld on the downstream expansion spool connected to the Langeled sub-sea valve station located at the Sleipner field on the Norwegian continental shelf and terminating immediately downstream of the Langeled pig receiving facilities at the terminal at Easington in Yorkshire in the United Kingdom;

“Licence” means a permit issued by one of the Governments to carry out exploration for and/or Exploitation of Petroleum in a given area or, if applicable, for the Construction and Operation of a Pipeline;

“Licensee” means the individual or body corporate, holding a Licence;

“Licensees' Agreement” means an agreement between the Licensees of the United Kingdom Government and the Licensees of the Norwegian Government, entered into in accordance with this Agreement, relating to a Cross-Boundary Project, and any supplementary agreement to such agreement, including any amendment or modification to or any waiver of or departure from any provision of such agreement;

“Petroleum” means all liquid and gaseous hydrocarbons existing in or derived from natural strata, as well as other substances produced in association with such hydrocarbons;

“Pipeline” includes any connection point and/ or associated valve or pig trap to that Pipeline;

“Trans-Boundary Reservoir” means any single geological Petroleum structure or Petroleum field which extends across the Delimitation Line; and

“Unit Area” means the area for joint exploration and/or Exploitation of a Trans-Boundary Reservoir, as set out in the Licensees' Agreement as approved by the two Governments.

ARTICLE 1.3

Jurisdiction

- (1) Nothing in this Agreement shall be interpreted as affecting the sovereign rights and the jurisdiction which each State has under international law over the continental shelf which appertains to it.
- (2) All Installations on the continental shelf appertaining to the United Kingdom shall be under the jurisdiction of the United Kingdom and all Installations on the continental shelf appertaining to the Kingdom of Norway shall be under the jurisdiction of the Kingdom of Norway.

ARTICLE 1.4

Authorisation

- (1) The two Governments shall use their best efforts to facilitate Cross-Boundary Projects and shall not prevent or impede such projects by unreasonably withholding Authorisations.
- (2) The two Governments shall co-ordinate their relevant Authorisation procedures and where both Governments issue Authorisations they shall be given simultaneously, unless agreed otherwise, and shall be compatible with each other.
- (3) A Government shall not alter or modify any Authorisation for Cross-Boundary Projects nor grant the like rights to any other person nor consent to any assignment of any rights or obligations under such Authorisation where such changes are likely to affect materially the interests of the other Government, without prior consultation with that Government and having taken due account of all relevant matters raised by it.
- (4) In particular, a Government shall not grant any Authorisation or alter or modify an Authorisation for a Pipeline referred to in Chapter 2, so as to prevent there being joint or unified ownership of the whole length of the Pipeline, unless the two Governments agree otherwise.
- (5) A copy of an Authorisation granted by one of the Governments shall be made available on request to the other Government.

ARTICLE 1.5

Health, Safety and Environment: Standards

- (1) The health, safety and environmental standards and/or requirements of the Government issuing the Authorisations relating to Cross-Boundary Projects shall be met. Both Governments recognise that, where there is an agreement pursuant to Article 2.4 (5), that agreement shall not affect the application by the receiving coastal

State of its own health, safety, environmental and other requirements for the Pipeline in question.

(2) To facilitate Cross-Boundary Projects, the two Governments shall encourage, where possible, the adoption of common health, safety and environmental standards and requirements. In any event, the two Governments shall seek to ensure that their respective standards and requirements are compatible. There shall be full consultation between the two Governments to this end.

(3) Having regard to the fact that:

- (a) the Government with responsibility for the Host Facility may have an interest in health, safety and environmental issues concerning the reservoir being exploited and any associated facilities on the other State's continental shelf, and
- (b) the Government with responsibility for the reservoir being exploited and any associated facilities may have a similar interest in such issues concerning the Host Facility,

the competent authorities of the two Governments shall consult with a view to putting in place appropriate procedures to safeguard the said interests of each Government.

(4) The two Governments undertake to make every endeavour, jointly and severally, after consultations, to ensure that:

- (a) the Construction and Operation of any Installation or Pipeline shall not cause pollution of the marine environment or damage by pollution to the coastline, shore facilities or amenities, or damage to sensitive habitats or damage to vessels or fishing gear of any country; and
- (b) appropriate procedures are in place for the safety and health of personnel.

(5) The competent authorities of the two Governments shall develop procedures for the implementation of this Article, including measures to be taken in an emergency.

ARTICLE 1.6

Health, Safety and Environment: Physical Access and Inspection

(1) To enable Inspectors from each State to safeguard the interests of their Government in respect of health, safety and environmental matters, the competent authorities of the two Governments shall consult in order to agree on procedures for:

- (a) consultation;
- (b) access to all relevant information;

- (c) physical access, at all stages, to any Infrastructure relating to a Cross-Boundary Project; and
 - (d) physical access in the territory of either State to terminals which are relevant to a Cross-Boundary Project.
- (2) The Inspectors of each Government shall act in co-operation and consult with Inspectors of the other Government with a view to achieving compliance with the health, safety and environmental standards and/or requirements applicable to a Cross-Boundary Project.
- (3) An Inspector of one Government may, with regard to Installations located on the continental shelf appertaining to the other State, request an Inspector of the other Government to exercise his powers to ensure compliance with the standards and/or requirements referred to in paragraph (2) whenever it appears that circumstances so warrant. In the event of any disagreement between the Inspectors of the two Governments or the refusal of the Inspector of the one Government to take action at the request of the Inspector of the other Government, the matter shall be referred to the competent authorities of the two Governments.
- (4) If it appears to an Inspector of either Government to be necessary or expedient for the purpose of averting an incident involving risk to life or serious personal injury, whether the danger is immediate or not, or minimising the consequences of such an incident, and time and circumstances do not permit consultation between the Inspectors of the two Governments, that Inspector may order the immediate cessation of any or all operations in relation to a Cross-Boundary Project. Immediately thereafter, the fact of such an order and the reason therefore shall be reported to the competent authorities of the two Governments who shall then consult to consider the actions necessary for the safe and speedy resumption of operations.

ARTICLE 1.7

Metering Systems and Inspection

- (1) Both Governments shall approve any metering system which is related to a Cross-Boundary Project and which is of common interest. The competent authorities of the two Governments shall establish procedures for early approval of such a system.
- (2) When adopting standards for such metering systems, the two Governments shall pay particular regard to the economic impact of such standards on the Cross-Boundary Project in question, and shall ensure that the adoption of such standards shall not unfairly or unduly burden the economics of that Project. In the case of a Cross-Boundary Project making use of a Host Facility, the two Governments shall pay due regard to the prevailing standards for metering systems on that Host Facility. The two Governments shall also give due consideration as to whether new metering systems are appropriate in the light of metering arrangements already in place elsewhere on the continental shelf or in the territory of either State.

(3) The competent authorities of the two Governments shall establish arrangements so that Inspectors of both Governments have access to relevant metering systems on the continental shelf or in the territory of either State to ensure that their interests are safeguarded.

ARTICLE 1.8

Physical Security

The competent authorities of the two Governments shall consult one another with a view to concluding such mutual arrangements as they consider appropriate in relation to the physical protection of Infrastructure.

ARTICLE 1.9

National and International Emergency

Nothing in this Agreement shall prejudice the exercise by each Government of its powers in the case of national or international emergency. Consultations shall be held at the earliest opportunity in order that the two Governments may agree on appropriate joint measures to reconcile the urgency of the situation with their common interest in the most effective Exploitation of reservoirs or the use of Infrastructure.

ARTICLE 1.10

Exchange of Information

(1) Subject to lawful restrictions as to disclosure and use, both Governments will ensure the proper exchange of information between them relating to Cross-Boundary Projects.

(2) Recognising that the United Kingdom and Norwegian offshore pipeline and production systems will increasingly become interlinked, there is a need for increased information flows about upstream operations which affect downstream operations, and vice versa, and for information sharing, in particular between the Governments, other regulatory authorities and the relevant system operators. The two Governments recognise that such considerations apply also to existing pipeline connections between the two States.

(3) Where one Government, in order to ensure safe, effective and stable operations of the systems, places obligations on its field, pipeline, terminal or system operators to provide information about forecast or actual production from or through their facilities, or seeks to establish voluntary arrangements for the provision of that information, the other Government will not put obstacles in the way of the provision of such information by those field, pipeline, terminal or system operators about production crossing the Delimitation Line and being landed in the territory of the first

Government. Both Governments will encourage the fullest exchange of information to meet these requirements.

4) This Article applies to Cross-Boundary Projects, as well as to any installation and/or pipeline covered by any of the Agreements listed in Annex E.

ARTICLE 1.11

Tax

Profits arising from the use of Infrastructure relating to Cross-Boundary Projects, capital represented by such Infrastructure and capital gains arising from the disposal of such Infrastructure or an interest therein shall be taxed in accordance with the laws of the United Kingdom and the Kingdom of Norway respectively, including the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital signed at London on 12 October 2000⁴ and any Protocol or Protocols to that Convention or any Convention replacing that Convention as may be signed in the future.

ARTICLE 1.12

Construction of Pipelines and Use of Existing Infrastructure

(1) The two Governments shall seek to facilitate the use of existing Infrastructure capacity on fair, transparent and non-discriminatory terms including, where appropriate, the installation of connection points and/or any necessary associated valves during the construction of Pipelines to facilitate the process for subsequent tie-ins.

(2) In furtherance of paragraph (1), should the two Governments receive a proposal for the Construction and Operation of a Pipeline (additional to Langeled South) to land Norwegian dry gas directly in the United Kingdom in circumstances where adequate spare capacity is available in United Kingdom offshore Infrastructure, the two Governments shall consult with a view to satisfying themselves that the process for selecting the transportation solution has been open and transparent and that the best economic solution has been selected. The determination of the need for and selection of transport capacity shall follow broadly the Work Process set out in Annex A.

ARTICLE 1.13

Continued Use and Termination

⁴ Treaty Series No. 26 (2001) Cm 5136

(1) Where an Authorisation which has a direct effect on a Cross-Boundary Project is about to expire, and the holder of the Authorisation seeks its renewal, the Government responsible for that Authorisation shall, subject to its law, renew it.

(2) Where an Authorisation which has a direct effect on a Cross-Boundary Project:

- (a) is likely to be or has been revoked; or
- (b) is due to expire or has expired without a renewal of that Authorisation being sought; or
- (c) is likely to be or has been surrendered,

the Government responsible for that Authorisation shall, in consultation with the other Government, consider the economic and practical options for continued use. Provided that economic and practical options for continued use are established, the Government responsible for that Authorisation shall, in accordance with its law, issue a new Authorisation to enable the Cross-Boundary Project to continue.

ARTICLE 1.14

Decommissioning

(1) In respect of Installations associated with Cross-Boundary Projects, decommissioning plans are subject to the approval of the Government on whose continental shelf or in whose territorial waters the Installation is situated, after full consultation with the other Government. The aim of both Governments shall be to seek to reach agreement on decommissioning methods and standards and both Governments shall approve the timing of any such decommissioning.

(2) In respect of Cross-Boundary Pipelines:

- (a) both Governments shall approve the timing of the decommissioning of a Cross-Boundary Pipeline;
- (b) both Governments shall seek to reach agreement on decommissioning methods and standards; and
- (c) in respect of the decommissioning of Langeded South, the two Governments shall approve the timing, methods and standards of such decommissioning.

(3) Decommissioning plans shall include:

- (a) an estimate of the cost of the measures proposed in it; and
- (b) details of the times at or within which the measures proposed in it are to be taken or make provision as to how those times are to be determined.

(4) In making decisions on decommissioning plans, the Government or Governments responsible shall address fully and take proper account of:

- (a) applicable international requirements, standards or guidelines;
- (b) safety hazards associated with decommissioning, including where relevant transport and disposal;
- (c) safety of navigation;
- (d) the environmental impact of the measures proposed;
- (e) the impact of the measures proposed on other users of the sea;
- (f) best available cost-effective techniques;
- (g) economic factors;
- (h) the timetable for decommissioning;
- (i) the impact of the measures proposed on the continued operation or decommissioning of the Infrastructure not covered by the decommissioning plan;
- (j) the views expressed by other persons having an interest; and
- (k) other relevant matters raised by either Government.

(5) The Government or Governments responsible for the approval of the decommissioning plan may approve the plan with or without modifications or conditions. Before approving the plan with modifications or subject to conditions, the Government or Governments responsible for the approval of the decommissioning plan shall give the person (whether or not a Licensee) who submitted the plan an opportunity to make representations about the proposed modifications or conditions.

(6) The Government or Governments responsible for the approval of the decommissioning plan shall act without unreasonable delay in reaching a decision as to whether to approve or reject the plan and shall require the implementation of any plan so approved.

(7) If the decommissioning plan is rejected, the Government or Governments responsible for the approval of the plan shall inform the person who submitted the plan of the reasons for doing so. That person shall, in such circumstances, be required to submit a revised plan within a specific time limit acceptable to the Government or Governments.

ARTICLE 1.15

Framework Forum

The two Governments hereby establish a Framework Forum to facilitate the implementation of this Agreement. The Framework Forum shall include representatives of each Government. The two Governments may agree to other parties attending when appropriate. The Framework Forum shall provide a means for ensuring continuous consultation and exchange of information between the two Governments and a means for resolving issues without the need to invoke the dispute settlement procedures set out in Chapter 5. The Framework Forum shall meet twice yearly or at other intervals agreed by the two Governments, and shall be subject to such further arrangements as may be agreed by the two Governments from time to time.

CHAPTER 2 CONSTRUCTION AND OPERATION OF AND ACCESS TO PIPELINES

ARTICLE 2.1

Authorisations

- (1) Where the two Governments agree to the Construction and Operation of a Cross-Boundary Pipeline, they shall individually grant the Authorisations required by their respective national law.

- (2) When an Authorisation referred to in paragraph (1) is required by only one Government, that Government shall consult with the other Government before granting such Authorisation.

ARTICLE 2.2

Agreement between Pipeline Owners

(1) In respect of a Cross-Boundary Pipeline which is associated with a Trans-Boundary Reservoir and where Licensees of both States of that Trans-Boundary Reservoir have a participating interest in that Pipeline, each Government shall require its Licensees and/or its holders of an Authorisation to enter into a Licensees' Agreement. The Licensees' Agreement shall incorporate provisions to ensure that, in the event of a conflict between the Licensees' Agreement and this Agreement, the provisions of this Agreement shall prevail.

(2) The Licensees' Agreement shall be submitted to the two Governments for their approval. Such approval shall be deemed to have been granted unless the Licensees and/or the holders of an Authorisation have been notified to the contrary, by either Government, within 60 days of its receipt of the document in question.

ARTICLE 2.3

Pipeline Operator

The appointment and any change of operator of a Cross-Boundary Pipeline shall be subject to agreement by the two Governments.

ARTICLE 2.4

Access System: Terms and Conditions

(1) The terms and conditions for access to a Cross-Boundary Pipeline, including the setting of entry and exit tariffs, shall be in accordance with applicable European Union law. The principles of fairness, non-discrimination, transparency and open access to spare capacity and avoidance of any abuse of a dominant position or other anti-competitive behaviour shall apply.

(2) Access to a Cross-Boundary Pipeline shall include physical access to capacity and, where appropriate, to facilities supplying technical services incidental to such access.

(3) Where a Government determines the financial terms for access to Pipelines related to a Cross-Boundary Project, those terms shall be such that they promote the optimal use of existing Pipelines and do not inhibit alternative options for using United Kingdom and Norwegian Pipelines and Pipeline systems, in whole or in part, for the transportation of Petroleum from one State to the other State.

(4) Where there are proposed changes to the regulations or guidelines relating to access to Pipelines of one State which may affect the commercial parties of the other State, there shall be the fullest consultation between the two Governments before any changes are made and due account shall be taken of any representations made.

(5) The two Governments may agree, on a case-by-case basis, to apply the access regime applicable to a Cross-Boundary Pipeline on the continental shelf of one State to the same Pipeline whilst on the continental shelf of the other State, but not in the coastal State's territorial waters.

(6) The two Governments have agreed, in conformity with paragraph (5), that the Norwegian regulated access system shall apply to Langedale South and that the Norwegian Government shall set the exit tariffs, onshore, for that Pipeline.

ARTICLE 2.5

Access System: Entry Points and Tariffs

(1) This Article applies to the setting of regulated entry points on either continental shelf and entry tariffs for Langedale South for Petroleum produced from a reservoir wholly or in part on the continental shelf appertaining to the United Kingdom.

(2) Entry points and tariffs referred to in paragraph (1) shall be agreed jointly by the two Governments. Such entry tariffs shall normally be set at zero, subject to adjustments for positive or negative effects on the throughput and provided that all costs related to the tie-in are otherwise covered.

(3) The two Governments shall, upon request, supply commercial parties with relevant information regarding the setting of new entry tariffs in such a manner as to provide predictability prior to investment decisions. Such information shall be supplied without undue delay, and, if possible, within sixteen weeks of such request. Such tariffs shall be formally determined simultaneously with the approval of the relevant project.

(4) The conditions set out in this Article may also apply to other Cross-Boundary Pipelines if so agreed by the two Governments.

ARTICLE 2.6

Access System: Exit Points and Tariffs

(1) This Article applies to the setting of regulated exit points and exit tariffs, offshore, in connection with the establishment of the First Dry Gas Link between United Kingdom and Norwegian offshore Infrastructure.

(2) Exit points and tariffs referred to in paragraph (1) shall be set by the Norwegian Government in accordance with the principles set out in Annex B, and after full consultation with the United Kingdom Government.

(3) The Norwegian Government shall provide sufficient information to the United Kingdom Government to enable that Government properly to satisfy itself that the decision fully and properly takes into account the principles set out in Annex B.

(4) The conditions set out in this Article may also apply to other Cross-Boundary Pipelines if so agreed by the two Governments.

ARTICLE 2.7

Access System: Dispute Settlement

- (1) This Article shall apply to:
 - (a) any dispute between the owner or operator of Langeded South and a shipper of Petroleum originating from the continental shelf appertaining to the United Kingdom as to whether or not the owner or operator of Langeded South has fully and properly complied with the terms and conditions laid down in the applicable regulated access system;
 - (b) any dispute concerning a tariff between the owner or operator of a United Kingdom Pipeline to which the First Dry Gas Link is to be connected and a shipper of Petroleum originating from the Norwegian continental shelf; and
 - (c) any dispute with regard to access to any other Cross-Boundary Pipeline, not covered by sub-paragraph (a) or (b) above, to the extent agreed by the two Governments.

(2) As regards a dispute covered by paragraph (1) (a), the dispute shall be submitted simultaneously to both Governments who shall jointly resolve the dispute within a reasonable time frame, taking into account the need for a speedy resolution. The principles underlying the determination of the dispute by the two Governments shall be transparent and non-discriminatory and wholly in accordance with Article 2.4 (1). The decision of the two Governments shall be binding on all the parties involved.

(3) As regards a dispute covered by paragraph (1) (b), the dispute shall be resolved by the United Kingdom Government in accordance with the principles set out in Annex C, after fully consulting the Norwegian Government. The United Kingdom Government shall provide sufficient information to the Norwegian Government to enable the latter Government properly to satisfy itself that the decision fully and properly takes into account the principles set out in Annex C.

CHAPTER 3

JOINT EXPLOITATION OF TRANS-BOUNDARY RESERVOIRS AS A UNIT

ARTICLE 3.1

Unitisation and Authorisations

(1) Where the two Governments, after consultation with their respective Licensees, agree that a Petroleum reservoir is a Trans-Boundary Reservoir which

should be exploited, it shall be exploited as a single unit in accordance with the terms of this Agreement, unless otherwise agreed by the two Governments.

(2) Subject to paragraph (1), the two Governments shall individually grant the Authorisations required by their respective national law.

(3) In the event that a Trans-Boundary Reservoir is to be exploited as a single unit by making use of a Host Facility, the two Governments shall agree the most appropriate procedures to exploit that Trans-Boundary Reservoir.

ARTICLE 3.2

Agreement between the Licensees

(1) Each Government shall require its Licensees to enter into a Licensees' Agreement to regulate the Exploitation of a Trans-Boundary Reservoir in accordance with this Agreement. The Licensees' Agreement shall incorporate provisions to ensure that in the event of a conflict between the Licensees' Agreement and this Agreement, the provisions of this Agreement shall prevail.

(2) The Licensees' Agreement shall be submitted to the two Governments for their approval. Such approval shall be deemed to have been granted unless the Licensees have been notified to the contrary, by either Government, within 60 days of its receipt of the Licensees' Agreement.

ARTICLE 3.3

Determination and Apportionment of Reserves

(1) The Licensees' Agreement shall define the Trans-Boundary Reservoir to be exploited and include proposals for the determination of:

- (a) the geographical and geological characteristics of the Trans-Boundary Reservoir;
- (b) the total amount of the reserves and the methodology used for the calculation; and
- (c) the apportionment of the reserves as between the Licensees of each Government.

(2) The Licensees' Agreement shall also specify:

- (a) either the arrangements for the outcome of a determination to apply for all time to all activities connected with the Exploitation of the Trans-Boundary Reservoir, or the procedures, including a timetable, for any redetermination of the matters referred to in paragraph (1), to be carried out by the unit operator, at the request of the Licensees or of either Government; and

- (b) the procedures, including a timetable, for the resolution of any dispute between the Licensees about any of the matters referred to in paragraph (1).

ARTICLE 3.4

Determination and Expert Procedure

- (1) If either Government is unable to agree to a proposal for the determination or redetermination of any of the matters referred to in Article 3.3 (1), it shall so notify the other Government and the unit operator within the period provided for in Article 3.2 (2).
- (2) The two Governments, having regard to the desire to reach an early resolution, shall use their best endeavours to resolve the matter in question. The unit operator may submit alternative proposals for this purpose.
- (3) If, within 60 days of the notification referred to in paragraph (1) or such other period as the two Governments may agree, the two Governments remain unable to resolve the matter in question, a single expert shall be appointed to reach a timely and independent determination of that matter. The expert shall be appointed and act in accordance with the terms of Annex D.

ARTICLE 3.5

Inclusion of Additional Licensed Area

- (1) If, after a Licensees' Agreement has been approved by the two Governments, the Governments agree that the limits of the Trans-Boundary Reservoir extend into an area of the continental shelf in respect of which another party holds a production Licence, the two Governments shall require all their respective Licensees with a participating interest in the Trans-Boundary Reservoir to agree arrangements for the effective Exploitation of the Petroleum in the area. Any such arrangements shall be made within the time limit stipulated by the two Governments, be consistent with the provisions of this Agreement and be subject to the approval of the two Governments. The provisions of Article 3.2 shall apply to any such arrangements which take the form of a Licensees' Agreement.
- (2) In the event that arrangements are not made within the stipulated time limit, any further action to be taken shall be decided jointly by the two Governments.

ARTICLE 3.6

Inclusion of Non-Licensed Area

- (1) If, after a Licensees' Agreement has been approved by the two Governments, the two Governments agree that the Trans-Boundary Reservoir extends into an area of

the continental shelf which is not covered by a production Licence, the Government, to which the area of the continental shelf appertains, shall, without unreasonable delay, seek to remedy the situation by offering the said area for Licence.

(2) In the event that a production Licence is granted covering the area referred to in paragraph (1), the two Governments shall require all their respective Licensees with a participating interest in the Trans-Boundary Reservoir to agree arrangements for the effective Exploitation of the Petroleum in the area. Any such arrangements shall be made within the time limit stipulated by the two Governments, be consistent with the provisions of this Agreement and shall be subject to the approval of the two Governments. The provisions of Article 3.2 shall apply to any such arrangements which take the form of a Licensees' Agreement.

(3) If a production Licence is not granted or if a production Licence is granted but arrangements are not made within the stipulated time limit, any further action to be taken shall be decided jointly by the two Governments.

ARTICLE 3.7

Unit Operator

A unit operator shall be appointed by agreement between the Licensees of the two Governments as their joint agent for the purpose of exploiting a Trans-Boundary Reservoir in accordance with this Agreement. The appointment of, and any change of, the unit operator shall be subject to prior approval by the two Governments.

ARTICLE 3.8

Appraisal Wells

Subject to its law, neither Government shall withhold a permit for the drilling of wells by, or on account of, its Licensees for purposes related to the determination of any of the issues referred to in Article 3.3.

ARTICLE 3.9

Development Plan: Exploitation of a Trans-Boundary Reservoir

(1) The unit operator shall submit to the two Governments for their approval a development plan for the effective Exploitation of a Trans-Boundary Reservoir and for the transportation of Petroleum therefrom.

(2) In the event that a Trans-Boundary Reservoir is to be exploited by making use of a Host Facility, the development plan referred to in paragraph (1) shall include a description of those modifications to and operations on the Host Facility which are directly linked to the Exploitation of the Trans-Boundary Reservoir.

(3) The unit operator may at any time submit amendments to the development plan to the two Governments and may also be required to do so at the request of the two Governments. All amendments to the development plan are subject to approval by the two Governments.

ARTICLE 3.10

Commencement of Production

Unless otherwise agreed by the two Governments, neither Government shall permit the commencement of production from a Trans-Boundary Reservoir unless the two Governments have jointly approved, in accordance with this Agreement:

- (a) the Licensees' Agreement;
- (b) the unit operator referred to in Article 3.7; and
- (c) the development plan referred to in Article 3.9;

and have each granted any other necessary Authorisations.

ARTICLE 3.11

Use of an Installation within a Unit Area for the Exploitation of another Reservoir

In the event that an Installation, which is located within a Unit Area, is to be used for the exploration and/or Exploitation of a Petroleum reservoir outside that Unit Area, any necessary amendments required to the development plan referred to in Article 3.9 shall be submitted to the two Governments for approval. Such approval shall not be granted if such use would adversely affect the Exploitation of the Trans-Boundary Reservoir in accordance with this Agreement, unless the two Governments agree otherwise.

ARTICLE 3.12

Cessation of Production

The two Governments shall agree on the timing of the cessation of the production from a Trans-Boundary Reservoir.

CHAPTER 4 PROJECT USING A HOST FACILITY

ARTICLE 4.1

Authorisations

Where the two Governments and their respective Licensees agree to a project using a Host Facility, each Government shall, in addition to giving any approvals for the purposes of Articles 3.9 and 3.11, individually grant any Authorisations required by its respective national law.

ARTICLE 4.2

Development Plan

Subject to Articles 3.9 and 3.11, each Government shall require its Licensees to submit to it for its approval a development plan or a modification to an existing development plan, covering matters relevant to a project referred to in Article 4.1.

ARTICLE 4.3

Governmental Decision

Subject to Chapter 3, any Governmental decision:

- (a) which relates to an Installation outside a Unit Area and which is relevant to its use as a Host Facility for a reservoir on the other side of the Delimitation Line or a Trans-Boundary Reservoir; or
- (b) which relates to a reservoir on one side of the Delimitation Line making use of a Host Facility on the other side of the Delimitation Line, and which is relevant to that use;

shall be made by the Government on whose side of the Delimitation Line the Host Facility is placed or the reservoir lies, in close consultation with the other Government, taking due account of all matters raised by that Government. An example of such a decision is the timing of the cessation of the relevant activities.

ARTICLE 4.5

Operator

Subject to Article 3.7, the appointment or change of operator of the reservoir and/or the Host Facility shall be subject to the approval of the Government on whose continental shelf the reservoir or Host Facility lies after consultation with the other Government.

CHAPTER 5 DISPUTE SETTLEMENT

ARTICLE 5

Conciliation Board

(1) Subject to paragraph (2), should the two Governments fail to reach agreement on the interpretation or application of this Agreement, including any matter to be resolved under it, the following dispute settlement procedure shall apply, unless the dispute falls within the procedures agreed under Article 3.4, or unless the two Governments agree otherwise:

- (i) either Government may request that the disputed matter be submitted to a Conciliation Board;
- (ii) the Conciliation Board shall consist of five members. Each Government shall designate two members, and the four members so designated shall designate the fifth (who shall not be a national of or

habitually reside in the United Kingdom or in the Kingdom of Norway) who will act as the Chairman of the Conciliation Board;

- (iii) if either Government fails to designate one or more members of the Conciliation Board within one month of a request to do so, either Government may request the President of the International Court of Justice to designate the required number of members;
- (iv) the same procedure shall apply *mutatis mutandis* if the four Conciliation Board members fail to designate a fifth member to act as Chairman within one month of the designation of the fourth member;
- (v) the Conciliation Board shall be entitled to all relevant information and may carry out any necessary consultations;
- (vi) the Conciliation Board shall be required to reach a decision within a reasonable time limit (taking into account the need for a speedy resolution);
- (vii) decisions of the Conciliation Board shall be taken by simple majority and shall be binding on the two Governments; and
- (viii) further rules of procedure relating to decisions of the Conciliation Board may be agreed by the two Governments.

(2) Where it falls to one Government, in accordance with Article 2.6 or Article 2.7(3) to determine an exit tariff, offshore, in a regulated access system or to settle a dispute over a tariff in a negotiated access system and the Framework Forum has been unable to resolve a disagreement between the two Governments on the matter in question, the Conciliation Board shall consider, at the request of either Government, whether:

- (a) the information, which the Government taking the decision has provided to the other Government, was sufficient to enable that other Government properly to satisfy itself that the decision fully and properly took into account the principles in Annex B or Annex C; and
- (b) the decision fully and properly took account of the relevant principles in Annex B or Annex C.

CHAPTER 6 FINAL CLAUSES

ARTICLE 6.1

Amendments and Termination

The two Governments may amend or terminate this Agreement at any time by agreement. Either Government may at any time request that consultations are initiated with a view to considering amendments to this Agreement. Such consultations shall commence within two months of the request, and shall be conducted expeditiously. In such consultations the two Governments shall consider fully and take proper account of the proposals for amendment with the aim of reaching a mutually acceptable solution within the shortest possible time.

ARTICLE 6.2

Other Petroleum Agreements

Without prejudice to Articles 1.10 and 2.6, this Agreement shall not affect the continued operation of the other Petroleum Agreements listed in Annex E, which shall prevail as long as they remain in force. Consequently, where the development of a Trans-Boundary Reservoir or of a project making use of a Host Facility is subject to this Agreement, a Pipeline, which is associated with such a development and which falls within the provisions of the Framework Agreement signed at Stavanger on 25 August 1998, shall be subject to the latter Agreement.

ARTICLE 6.3

Entry into Force

This Agreement shall enter into force on the date on which the two Governments shall have informed each other that all necessary internal requirements have been fulfilled.

In witness whereof the undersigned, duly authorised by their respective Governments, have signed this Agreement.

Done in duplicate at Oslo this 4th day of April 2005 in the English and Norwegian languages, both texts being equally authoritative.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

MIKE O'BRIEN

For the Government of
the Kingdom of Norway

THORHILD WIDVEY

WORK PROCESS
TO DETERMINE THE NEED FOR AND SELECTION OF ADDITIONAL
TRANSPORT CAPACITY FOR DRY GAS FROM THE KINGDOM OF
NORWAY TO THE UNITED KINGDOM

(1) The following describes the process for establishing additional capacity for dry gas transport from the Gassled dry gas system to the United Kingdom, i.e. capacity in excess of the Vesterled and the Langeled South pipelines. This work process will involve Gassco (operator of the Norwegian continental shelf dry gas infrastructure), the owners of gas infrastructure in the Kingdom of Norway and the United Kingdom, gas shippers and the authorities in both countries (the Ministry of Petroleum and Energy and the Petroleum Directorate in Norway and the Department of Trade and Industry in the United Kingdom).

(2) The annual Shipping and Transportation Plan prepared and maintained by Gassco registers the bookings and requests for future transport capacity by all companies (i.e. shippers) on the Norwegian continental shelf. The requested capacities in the Shipping and Transportation Plan are based on indicative volumes. The information provided by the shippers identifies both the entry and exit points for the different Gassled Areas (e.g. Area D – dry gas system) in the Norwegian continental shelf gas transportation system. The annual Shipping and Transportation Plan published in the second quarter of each year identifies the need for possible new transportation capacity and will determine the need for a new, dry gas connection from the Norwegian continental shelf to the United Kingdom. Timing (i.e. start up year) and the alternative Norwegian continental shelf node points to be assessed (e.g. Draupner, Sleipner, Heimdal etc.) will be included.

(3) For example, the Shipping and Transportation Plan for 2003, presented to the User Forum on 12 June 2003 showed a requirement for an aggregated future capacity for shipments of dry gas to the United Kingdom from 2008 of 120 Million Sm³/d. Based on data from the Shipping and Transportation Plan in 2003, planned capacity at that time (Vesterled + Langeled South pipelines) was 105 Million Sm³/d, indicating a need for possible new transport solutions from the Norwegian continental shelf to the United Kingdom from 2008 of up to 15 Million Sm³/d.

(4) Financing of any new transportation connection will require, on the one hand a group of gas shippers with an interest in transporting gas from the Norwegian continental shelf, and on the other, groups of investors (United Kingdom, Norwegian or others) putting forward proposals to build new transportation capacity. These groups may, therefore, have common members. United Kingdom infrastructure owners may also be part of the investor group.

(5) Gassco will publish a Shipping and Transportation Plan every year. If such plan concludes that additional transport capacity is required and the shippers are prepared to take forward a project then they will open commercial discussions with United Kingdom infrastructure owners and potential investor groups. At the same

time, the shippers and investors will initiate the commercial process with Gassco, on behalf of Gassled, for a tie-in to the Norwegian Gassled dry gas system. Exit tariffs will be determined by the Norwegian Government in accordance with Annex B. It is recognised that the potential investors and shippers must have early information on the cost of transportation in both the new and existing transportation systems to provide a basis for their investment and booking decisions.

(6) The shipper group and the potential investors, working with Gassco, will consider the technical and commercial proposals and carry out the concept selection process for the most appropriate new transportation connection. If a new connection is needed at least two years will be needed in preparation, to allow for the commercial and contractual discussions and for construction.

(7) All reasonable options for gas transportation will be developed to a similar level of technical and commercial maturity before concept selection to ensure a fair and open competition. Cost estimates and corresponding technical documentation will be open and accessible to all relevant parties.

(8) The process will be transparent but will also need to recognise the need to maintain effective competition between the proposals. To aid transparency, the mechanism for measuring and assessing proposals against the selection criteria will also be published in advance of the evaluation. The decision on the best option, including the route, for transporting gas to the United Kingdom, should be based on clear economic principles and provide the best economic solution for the shippers. The process will be fully transparent to the Framework Forum and that body will be the final arbiter in verifying that the concept selection process is being carried out in an open, fair and non-discriminatory manner and in accordance with the predetermined process. The Framework Forum will also be responsible for keeping development of new transport infrastructure under review and for encouraging a timely commercial process.

(9) If it is agreed that the link pipeline is incorporated into Gassled then Gassco will chair the process for establishing or amending the Participants' Agreement (ownership agreement) for the new infrastructure, including decisions on the investment shares and capacity rights, and will become the operator of the connection.

(10) The two Governments recognise that changes to the way in which the offshore industry in either the United Kingdom or the Kingdom of Norway is organised and/or regulated could result in a need to revise the Work Process set out in this Annex. In such event, the two Governments will, through the Framework Forum, revise this Annex so that it continues to reflect the process for establishing additional capacity to transport Norwegian dry gas to the United Kingdom. In drawing up any revision of this Annex, the two Governments will seek to satisfy themselves that the work process for selecting the best option, including the route, for transporting gas to the United Kingdom is fair and transparent, based on clear economic principles and provides the best economic solution for the shippers.

ANNEX B

THE PRINCIPLES FOR DETERMINING EXIT POINTS AND TARIFFS OFFSHORE FOR THE NORWEGIAN DRY GAS SYSTEM

(1) When an application to connect a Norwegian upstream system into a United Kingdom upstream system, or vice versa, is made and an exit tariff is to be determined, the Norwegian Government stipulating the tariff shall fully consult the United Kingdom Government before establishing a new exit point from the regulated system and the related tariff at such exit point.

(2) The two Governments shall apply the principles of non-discrimination, transparency and fairness for all parties concerned. The two Governments will aim to ensure optimal development and use of existing United Kingdom and Norwegian upstream transportation systems to ensure economically sound solutions and encourage the cost-efficient use of existing systems. The tariffs shall be cost-reflective.

(3) The Norwegian Government shall, when establishing an exit point and the related tariff, address fully and take proper account of the following factors:

- (a) system effects in one system (capacities, pressures, temperatures, quality, etc.) as a result of offshore connection to another system. Such effects could be positive or negative;
- (b) as a general principle all relevant investment costs arising from the new connection, including, where appropriate, a fair expected return to owners, shall be reimbursed by the users. Due account shall be taken of any wider benefits or costs to that system as a result of that connection;
- (c) fair sharing of operating costs. The exit tariff from the Gassled system will include a fair share of the operating cost of the Gassled system;
- (d) a fair expected return to owners on all basic (historic) capital costs of existing systems used to transport gas to the new exit point. This element will be well below the exit tariff at landing points.

(4) The Norwegian Government shall upon request supply commercial parties or the United Kingdom Government with relevant information regarding the stipulation of new tariffs in such a manner as to provide predictability prior to investment decisions and in any event, if possible, within sixteen weeks of such a request being made.

(5) Exit tariffs shall be formally determined simultaneously with the approval of the relevant project.

THIRD PARTY ACCESS TO UPSTREAM INFRASTRUCTURE ON THE UNITED KINGDOM CONTINENTAL SHELF

TARIFF SETTING PRINCIPLES

(1) The United Kingdom Government supports the principle of non-discriminatory negotiated access to upstream infrastructure on the United Kingdom continental shelf, encourages transparency and promotes fairness for all parties concerned since it is important that prospective users have fair access to infrastructure at competitive prices whilst recognising that spare capacity in upstream infrastructure has a commercial value and that, having borne the cost and risk of installing it, the owner should be entitled to derive a fair commercial consideration for that value. Any tariff imposed by the Secretary of State would, accordingly, reflect a fair payment to the owner for real costs and for opportunities forgone.

(2) If the Secretary of State's powers to require access and to set a tariff were to be used:

- (i) infrastructure owners would have their consequential costs reimbursed, including indirect ones (e.g. the cost of interruption to the owner's throughput while a pipeline is modified to enable third party use);
- (ii) the tariff would be set so that the third party would bear a fair share of the total running costs incurred after his entry;
- (iii) unless the supply in question were marginal or the infrastructure owner had already made other sufficient arrangements to recover the full capital costs, the financial arrangements proposed would normally take account of the basic capital costs⁵ as well as the costs arising from the entry of the third party.

(3) On occasion, prospective third party users may be competing for access to the same limited capacity in infrastructure. In such circumstances, the Secretary of State is unlikely to require the owner to make the capacity available to a prospective user who values the capacity less than other prospective users and thus does not offer a better deal for the owner.

(4) For infrastructure with insufficient ullage to accommodate a third party's requirements, given the owner's rights and existing contractual commitments, the Secretary of State is unlikely to require access to be provided. If he were to do so, the tariff would need to reflect at least the cost to the infrastructure owner of backing off

⁵ In newer infrastructure or infrastructure constructed or oversized with a view to taking third party business, the tariff set by the Secretary of State would normally include an allowance for recovery of capital costs incurred in the expectation of third party business. This allowance in the tariff would be set at a level sufficient to earn the owner a reasonable return on these costs if that allowance were applied to throughput expected at the time of the decision to invest - recognising the uncertainty inherent in projections of future use.

their own production and/or another party's contracted usage to accommodate the third party's (i.e. be based on the concept of opportunity cost).

ANNEX D

EXPERT PROCEDURE

(1) This Annex shall apply where a matter is to be determined by an expert pursuant to Article 3.4 of this Framework Agreement.

(2) The expert shall be chosen and his mandate and employment terms settled by agreement between the two Governments. The expert shall be chosen from amongst persons or organisations who or which are recognised as experts in the relevant field and who or which can provide undertakings in respect of any conflict of interests which shall be in the form set out in the Appendix, unless otherwise agreed by the two Governments. Any contractors that the expert may employ to assist in reaching his decision must also provide undertakings in substantially similar terms. The expert and any contractor so employed will be required to safeguard the confidentiality of any information supplied to him.

(3) If no agreement has been reached on the choice of expert, the mandate and/or his employment terms within 6 weeks from the date on which either Government initiates the process provided for in this Annex, the two Governments shall ask the President of the Institut français du pétrole, or such other person or organisation if so agreed by the two Governments, to choose an expert from between two candidates, one nominated by each Government, and/or to determine the mandate and/or the terms of employment. If only one Government has nominated an expert, that expert shall be chosen.

(4) Each Government shall ensure that all information requested by the expert in order to reach a decision shall be provided promptly. The expert may only meet with one Government jointly with the other Government. All communications between one Government and the expert outside such meetings shall be conducted in writing and any such communication shall be copied to the other Government.

(5) Within 12 weeks of his appointment, the expert shall provide a preliminary decision to the two Governments together with a fully detailed explanation of how that decision has been reached. Thereafter there will be a period of 8 weeks (or such other period as the two Governments may agree) from the date that the preliminary decision is communicated to the two Governments so that they may seek clarification of that decision and/or make submissions to the expert for his consideration. The final decision of the expert along with a fully detailed explanation for that decision shall be communicated in writing to the two Governments within 4 weeks of the end of this period. Save in the event of fraud or manifest error, the decision of the expert shall be final and binding on the two Governments who shall ensure that the decision is implemented by the unit operator acting on behalf of the relevant licensees.

(6) The expert shall apportion liability for his fees and costs between the two Governments in a way that seems to him to be just and reasonable in all the circumstances. Either Government may recover from the unit operator any amounts payable under this paragraph.

APPENDIX TO ANNEX D

MODEL CONFLICT OF INTEREST UNDERTAKINGS

(1) [Name of expert] hereby warrants that he has not performed since [date], and will not perform during the course of his resolution of the matters in question, any work for either the Government of the United Kingdom or the Government of the Kingdom of Norway, or any Licensee of the [] Field or a Licensee of any other Field on the continental shelf appertaining to the United Kingdom or the Kingdom of Norway, which could influence his performance of, or conflict with his duties in relation to his resolution of the aforesaid matters in question. In particular, he warrants that he has not undertaken any work relating to the [] Field or for any of the [] Field Licensees within the last two years.

(2) [Name of contractor] hereby warrants that he has not performed since [date], and will not perform during the period for which he has been engaged by [name of expert] in connection with the Framework Agreement of 4 April 2005 concerning Cross-Boundary Petroleum Co-operation, any work for either the Government of the United Kingdom or the Government of the Kingdom of Norway, or any [] Field Licensee or a Licensee of any other Field on the continental shelves appertaining to the United Kingdom or the Kingdom of Norway, which could influence his performance of, or conflict with his duties under his contract with [name of expert]. In particular, he warrants that he has not undertaken any work relating to the [] Field or for any of the [] Field Licensees within the last two years.

ANNEX E

EXISTING PETROLEUM AGREEMENTS

Agreement of 22 May 1973,⁶ as amended by the Exchange of Notes dated 27 July 1994⁷, relating to the transmission of petroleum by pipeline from the Ekofisk field and neighbouring areas to the United Kingdom

Agreement of 10 May 1976⁸, as amended by the Agreement of 25 August 1998⁹ and

⁶ Treaty Series No. 101 (1973) Cmnd 5423

⁷ Treaty Series No. 1 (1995) Cm 2721

⁸ Treaty Series No. 113 (1977) Cmnd 7043

⁹ Treaty series No. 21 (2002) Cm 5513

the Exchange of Notes dated 21 June 2001¹⁰ relating to the exploitation of the Frigg Field Reservoir and the transmission of gas therefrom to the United Kingdom; and the use of the installations and pipelines for the exploitation and transmission of Hydrocarbons

Agreement of 16 October 1979¹¹, as amended by the Exchange of Notes dated 24 March 1995¹², relating to the exploitation of the Statfjord Field Reservoirs and the offtake of petroleum therefrom

Agreement of 16 October 1979¹³ and Supplementary Agreements of 22 October 1981¹⁴ and 22 June 1983¹⁵, as amended by the Exchange of Notes dated 9 August 1999¹⁶, relating to the exploitation of the Murchison Field Reservoir and the offtake of petroleum therefrom

Agreement of 21 November 1985¹⁷, amended by the Agreement of 1 November 2004, between the two Governments relating to the transmission by pipeline of Heimdal Liquids to the United Kingdom

Framework Agreement of 25 August 1998¹⁸ relating to the laying, operation and jurisdiction of inter-connecting submarine pipelines

¹⁰ Treaty series No. 43 (2001) Cm 5258

¹¹ Treaty Series No. 44 (1981) Cmnd 8282

¹² Treaty Series No. 57 (1995) Cm 2941

¹³ Treaty Series No. 39 (1981) Cmnd 8270

¹⁴ Treaty Series No. 25 (1982) Cmnd 8577

¹⁵ Treaty Series No. 71 (1983) Cmnd 9083

¹⁶ Treaty Series No. 110 (2000) Cm 4857

¹⁷ Treaty series No. 39 (1987) Cm 201

¹⁸ Treaty Series No. 9 (2003) Cm 5762

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