

Law and Practice

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1. GENERAL STRUCTURE OF PETROLEUM OWNERSHIP AND REGULATION

1.1 System of Petroleum Ownership

The Norwegian state's ownership of offshore petroleum resources and its exclusive and sovereign rights to exploration for and exploitation of petroleum resources were established by law in 1963. Excluding the Svalbard special regime, state ownership of mainland onshore petroleum resources was established by law in 1973. *There* is no ongoing mainland onshore petroleum activity. No specific secondary legislation has been adopted for the purpose of mainland onshore petroleum activities.

Exploration Licence

For commercial entities to conduct upstream operations, government authorisation is required. An exploration licence (concession) is required to conduct the non-exclusive collection of geoscience data. An exploration licence only grants the right to collect data and does not confer any other rights or preferences to petroleum, or an exclusive production licence. The exploration licence does not include the right to drill any well that is intended to penetrate petroleum-bearing strata. It grants a licensee the right to drill a shallow well for calibration purposes.

Production Licence

A production licence (concession) is required for entities to hold exclusive exploration (including drilling of wells) and production rights. Production licensees become owners of petroleum at the extraction point, but may only take their proportionate entitlement to petroleum at the production point, which is the point where petroleum may be transported in bulk. A facility licence (concession) is required to operate upstream facilities not included in an approved development plan for production. Facilities may not be

operated or used without a petroleum licence. An entity may own facilities used for petroleum activities, however, without itself holding a petroleum production licence, provided the operator of the facility holds the required petroleum licence (concession).

Direct State Participation

Direct state participation is exercised through the State Direct Financial Interest (SDFI), determined by the government on a discretionary basis. SDFI participation is considered and is subject to the petroleum regulatory and concessionary regime as a licensee, save that the SDFI does not obtain information relevant to the selection of suppliers of goods and services and does not take part in procurement decisions. The SDFI is not a legal entity separate from the state. SDFI licence interest and associated activities are managed by Petoro AS on behalf of the state (see **1.3 National Oil or Gas Company**).

1.2 Regulatory Bodies

Regulatory functions are exercised by state institutions. No regional or local authorities have any specific regulatory authority over petroleum resources or upstream operations. Pursuant to the applicable law and delegated powers, regional and municipal authorities have regulatory functions of a general nature where a project includes onshore facilities that require authorisations for planned use and management of land (including internal waters and harbours).

Stortinget

Stortinget (the national assembly) has ultimate legislative and budgetary authority pursuant to the 1814 Constitution. *Stortinget* passes laws, and the state budget, and grants government authority to ratify all major international law instruments. Any expense incurred in relation to petroleum resources, facilities or petroleum activities not covered by applicable law or budg-

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etary approvals must be submitted to *Stortinget* for approval.

Cabinet

The cabinet comprises 19 ministers, and makes formal administrative, regulatory and budgetary decisions in meetings ceremonially headed by the King of Norway. The King in Council also adopts secondary legislation referred to as royal decrees.

Ministries are headed by cabinet ministers. One ministry may have more than one cabinet minister. Each minister is in charge of the day-to-day activities within their area of responsibility. Subject to applicable law, a ministry takes administrative decisions in individual cases and passes secondary legislation in the form of ministerial regulations.

Ministry of Petroleum and Energy (MPE)

The Ministry of Petroleum and Energy (MPE) is in charge of petroleum resource management, petroleum sector facilities and operations subject to Norwegian law and jurisdiction. This includes resources, facilities and operations in all onshore and offshore areas except for the territory of Svalbard. It includes activities outside the Norwegian continental shelf (NCS) when consistent with public international law. The MPE is in charge of activities conducted on trans-boundary fields and the natural gas export pipeline network, all subject to bilateral treaties. It manages the state's participation interest (SDFI) and the gas pipeline-system operator Gassco AS. Corporate governance of the management of the SDFI upstream interest management company, Petoro AS, and the state's interest as shareholder in Equinor ASA has been transferred to the Ministry of Trade, Industry and Fisheries (MTIF). The MPE is the appeal body for appeals against decisions taken by the Norm Price Board.

Norwegian Petroleum Directorate (NPD)

The Norwegian Petroleum Directorate (NPD) is the sector's technical adviser and reports to the MPE. The NPD conducts NCS-relevant petroleum sector analysis and data management. In co-operation with other authorities, the NPD ensures comprehensive follow-up of offshore and onshore petroleum operations and, subject to delegated power, develops secondary regulations and non-binding guidelines. The NPD is the registrar of the Petroleum Registry, in which exclusive petroleum rights (licences) must be registered, as well as any MPE-approved mortgage or other security on petroleum facilities.

Regulatory Authority for Energy ("RME")

The regulatory authority for energy (RME) was (from 1 November 2019) appointed the independent downstream natural gas regulator by the MPE pursuant to the Natural Gas Act Section 4. RME has responsibilities in the downstream natural gas sector that are comparable to, but slightly less comprehensive than, those of the NPD. RME is not in charge of health, safety and the working environment (HSE) or environmental protection.

Ministry of Finance

The Ministry of Finance is in charge of personal, corporate and petroleum special taxation, VAT and other indirect taxes, customs and excise. A special tax authority, the Oil Taxation Office, deals with corporate and petroleum special tax matters relevant to those companies that hold exclusive petroleum rights and participate in Norwegian upstream operations. The Oil Taxation Office does not deal with downstream natural gas or activities related to the transport, storage, distribution or sale of petroleum products. These activities are regulated solely by the general tax regime.

Ministry of Labour and Social Affairs (“ASD”)

The Ministry of Labour and Social Affairs (“ASD”) is in charge of the working environment and petroleum operations safety. The ASD’s regulatory role comprises safety supervision, emergency preparedness (on facilities) and in the working environment in both offshore and onshore Norwegian petroleum operations.

Petroleum Safety Authority (PSA)

The Petroleum Safety Authority (PSA) is a directorate reporting to the ASD. The PSA monitors the health, safety and working environment aspects of the petroleum sector. It is authorised to issue regulations covering safety and the working environment within its sector of responsibility. It takes administrative decisions in the form of approvals and consents, makes orders (prohibitions and exemptions), and may issue administrative fines. The PSA may suspend or shut down upstream operations. Its supervisory responsibility comprises all upstream oil and gas activities on the NCS (fixed, movable or floating) installations and vessels, all pipeline systems, including intermediary terminals for natural gas export to the EU and the UK, and certain upstream onshore facilities.

Ministry of Transport (MT)

The Ministry of Transport (MT) is in charge of the government’s emergency response to acute pollution from petroleum operations and shipping. The National Coastal Administration (NCA) is the MT advisory and executive body. The NCA Department of Emergency Response is responsible for government emergency response measures against acute pollution.

Norwegian Maritime Authority (NMA)

The Norwegian Maritime Authority (NMA) is the administrative and supervisory authority to MT in matters related to health and safety, material security and the environment on Norwegian-flagged vessels and foreign ships in Norwegian

waters. The NMA is responsible for ensuring the legal protection of Norwegian-registered ships and registered rights on those ships. The NMA is subordinate to the MTIF and the Ministry of Climate and Environment.

1.3 National Oil or Gas Company**Petoro AS**

Petoro AS (“Petoro”) is a wholly state-owned company, managing the State Direct Financial Interest (SDFI) in petroleum licences on behalf of the state. Petoro does not apply for licences. State participation in production licences is discretionarily decided by government. The SDFI participating interest is considered a licensee. Petoro does not sell SDFI entitlements to petroleum production, but supervises such sales executed by Equinor ASA (previously Statoil).

Petoro was established pursuant to Chapter 11 of the Petroleum Act (PA) and legislation applicable to limited liability companies. Petoro is subject to ordinary limited liability company corporate law requirements. In addition, Petoro has to submit certain long-term and other qualified plans for the general assembly’s approval. Petoro votes as a licensee in the unincorporated joint venture established pursuant to the petroleum licence. Petoro holds certain joint venture veto rights for the protection of the state’s resource management interests. Petoro is excluded from participating in public procurement decisions, consistent with EEA public procurement law obligations.

Gassco AS

Gassco AS (“Gassco”) is a wholly state-owned joint-stock company appointed as the system operator of Gassled – the submarine natural gas gathering, transportation and landing pipeline system. Gassco cannot own pipelines, terminals or gas extracted or produced. Gassled IS (“Gassled”) owns almost all upstream gas transportation pipelines and their related onshore ter-

minals and holds a facilities licence. Gassled, with minority SDFI participating interest, is organised as an unincorporated joint venture in the same fashion as the NCS production licence. Gassco manages capacity bookings and capacity allocation. The MPE has issued regulations stipulating conditions for access and tariffs to be paid to use Gassled. All shippers with a duly substantiated need for capacity have access to Gassled on a non-discriminatory, objective and transparent basis. Tariffs are based on booked capacity, not throughput.

Equinor ASA

Equinor ASA (“Equinor”) – until 2018 Statoil ASA – remains a publicly listed joint-stock company in which the state holds 67% of the shares. Equinor is awarded rights like any other applicant and is subject to the same regulatory requirements as other licensees. Equinor still sells SDFI oil and gas production entitlements on behalf of the state.

1.4 Principal Petroleum Law(s) and Regulations

Regional or municipal authorities do not have any legislative powers in relation to petroleum resources. The Norwegian upstream petroleum regime may be divided into three segments, based on the location of the resource in question. There is no specific midstream regulation, but downstream natural gas transmission and distribution is regulated separately in line with EEA obligations implementing EU internal market rules in natural gas.

Petroleum Act

All exploration and production of petroleum from offshore resources is subject to the Petroleum Act of 29 November 1996, No 72. The PA is supplemented by a number of regulations, adopted as royal decrees, ministerial or directorate regulations. The most notable is the Petroleum Activities Regulations (“PR”) of 27 June 1997, No 653.

The King in Council, the MPE and the NPD also make individual decisions of a regulatory nature, based on delegated power under public administrative law. Non-binding guidelines are also published.

Title to petroleum resources in the ground, whether on the NCS or mainland territory, is vested in the state. The PA regulates the NCS seabed, facilities and petroleum operations and related activities associated with these resources. Petroleum rights licences are awarded as public administrative law concessions, not private law negotiated contracts. The PA also covers exploitation of these resources when exploitation takes place in maritime areas subject to Norwegian jurisdiction.

Upstream and downstream facilities and petroleum activities arising out of offshore resources may be governed by the PA when conducted onshore in Norway. The PA may also apply outside the NCS when Norway exercises jurisdiction consistent with international law.

In accordance with Sections 1–5 of the PA, other Norwegian laws apply to petroleum operations and facilities subject to the PA. The PA-defined term “petroleum activities” comprises more than the common industry understanding of “petroleum operations”. This is particularly relevant for staff located outside of Norway when in charge of planning, preparation and management of NCS operations.

Other Acts and Regulations Affecting Petroleum Activities

Other important acts with substantial impact on petroleum activities are:

- the Act of 18 June 2021, No 89, on the Norwegian continental shelf;
- the Act of 13 March 1981, No 6, relating to protection against pollution and waste;

- the Act of 17 June 2005, No 62 (“Working Environment Act”), relating to the work environment, working hours and employment protection, etc, has resulted in several regulations (see **1.2 Regulatory Bodies** on PSA-enforced regulations);
- the Act of 4 June 2015 on wage agreement terms has resulted in several regulations that are partly applicable to the petroleum sector (see **1.2 Regulatory Bodies** on PSA-enforced regulations);
- the Act of 14 June 2002, No 20, relating to the prevention of fire and explosions caused by hazardous substances, and emergency response by fire protection agencies has resulted in several regulations that are partly applicable to the petroleum sector (see **1.2 Regulatory Bodies** on PSA-enforced regulations);
- the Act of 24 May 1929, No 4, pertaining to the supervision of electrical installations and equipment has resulted in several regulations partly applicable to the petroleum sector (see **1.2 Regulatory Bodies** on PSA-enforced regulations);
- the Act of 21 June 1963, No 12, relating to scientific research;
- the Act of 21 December 1990, No 72, relating to tax on the discharge of CO₂ in petroleum activities on the continental shelf; and
- the Act of 13 June 1975, No 35, relating to the taxation of sub-sea petroleum deposits (Petroleum Taxation Act).

The purpose of the Norwegian petroleum regime applicable to offshore resources is expressed in Sections 1–2 of the PA, in particular the second paragraph stating that: “Resource management of petroleum resources shall be carried out in a long-term perspective for the benefit of the Norwegian society as a whole. In this regard the resource management shall provide revenues to the country and shall contribute to ensuring welfare, employment and an improved environ-

ment, as well as to the strengthening of Norwegian trade and industry and industrial development, and at the same time take due regard to regional and local policy considerations and other activities.”

The PA has only been moderately amended since it came into force on 1 July 1997. The most significant amendments were made in 2003 following the part privatisation of Statoil (now Equinor ASA) and the formation of Petoro AS and Gassco AS, including the establishment of rules applicable to third-party access to the upstream gas pipeline system operated by Gassco (the “tariff regulations”) – see **1.3 National Oil or Gas Company**.

The PA and the PR form the legal foundation for the licensing regime.

In 2005, a separate regulation for third-party access and use of facilities for extraction, production and transportation was passed (Ministerial Regulation of 20 December 2005, No 1625), regulating the procedures and requirements for access to and use of facilities other than those regulated by the tariff regulations applicable to Gassled facilities.

Several additional regulations have been adopted by the MPE, NPD and the PSA. The main regulations enforced by the NPD and the PSA were adopted pursuant to the Petroleum Act, the Working Environment Act, the Fire Protection Act, the Product Control Act, the Electric Installations Act and a number of healthcare specific acts. In addition to the PR, the main regulations are published at www.npd.no and www.ptil.no.

There are a number of labour law regulations adopted by the ASD and Labour Inspection Authority pertaining to the workplace, including acceptable exposure and threshold values and limits applicable to the working environment,

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performance of work, organisation, management and employee participation, labour hire undertakings, and worker identification requirements, etc. In addition to www.ptil.no, www.arbeidstilsynet.no may also be consulted.

The Act of 4 May 1973, No 21 (the Land Petroleum Act or LPA), governs upstream petroleum operations and facilities for the purpose of exploration for and production of petroleum resources in the subsoil of Norwegian mainland territory. The LPA also applies to resources in the narrow band of seabed close to shore that may be subject to private property rights. No detailed regulations have been adopted to implement the LPA. Mainland Norway consists mainly of base rock, so exclusive upstream rights or petroleum activities based on onshore resources have not yet been conducted.

The PA and LPA do not apply to the territory of Svalbard, which is subject to Norwegian sovereignty pursuant to the Svalbard treaty. The Svalbard regime follows a separate mining code applicable only to activities in that territory.

The Natural Gas Act

Norway mostly relies on hydroelectric power for its energy supply. Natural gas is almost entirely exported. There is only a small downstream natural gas sector in Norway. Downstream activities are based on natural gas from Norwegian offshore resources. The Act of 28 June 2002, No 61 (the Natural Gas Act or NGA), governs transmission and distribution of natural gas, and small-scale LNG storage and regasification plants. The NGA is accompanied by regulations (NGR). The structure and regulatory approach of the NGA are similar to the PA, but additionally include the specific EU internal market rules applicable to downstream natural gas infrastructure and market regulation adopted as part of Norway's EEA obligations.

2. PRIVATE INVESTMENT IN PETROLEUM: UPSTREAM

2.1 Forms of Allowed Private Investment in Upstream Interests

Exclusive exploration and production rights, and rights to construct and operate facilities related to offshore petroleum deposits, are subject to public administrative law-based concessions. These take the form of either a production licence or a facilities licence. The licensing system has been in place since the first licensing round awards in 1965. Onshore licences have not yet been awarded.

Investors may be privately or publicly owned or controlled. Persons or entities subject to international embargo by the UN or the EU will not be permitted to obtain participation interest in a petroleum licence or take over an entity holding such rights.

All exclusive upstream licences are normally required to have two or more participants. Participants in a production licence will be compelled, as a condition of the award, to enter into an unincorporated joint venture and be subject to a standard petroleum agreement with two mandatory exhibits enclosed, and their provisions by reference incorporated into the petroleum agreement: the joint-operating agreement (JOA) and the accounting agreement (ACC).

From 1965 until 2007, the format of the petroleum agreement was progressively changed. After this date, the system was harmonised to be identical to all operative production licences. For facilities licences, the joint venture may have different formats. Since the formation of Gassled, most gas pipeline joint ventures operated under a facilities licence are established under a standard unincorporated joint venture agreement approved by the MPE.

Consistent with EU internal market rules, legal and physical persons from EEA member states may apply for an exclusive production licence or the transfer of a production licence's participation interest. However, it is difficult to envisage that a single physical person may fulfil the technical, capacity, organisational and financial requirements of the law to obtain a Norwegian offshore production licence participating interest. Due to the ease of establishing an EEA entity, the MPE does not, in practice, distinguish between EEA entities and non-EEA entities.

2.2 Issuing Upstream Licences/ Obtaining Petroleum Rights

All upstream petroleum rights are governed by public administrative law, not private law-based contracts or licences. Concessions are awarded on the basis that the state exercises exclusive sovereignty or sovereign right over its natural resources.

Before any petroleum activities by commercial entities are permitted, the area must be opened for petroleum activities.

Opening New Areas

To open new areas for petroleum activities, the government prepares a comprehensive (strategic) environmental impact assessment (SEA). The SEA, as well as other important information (the petroleum potential of the area; the impact on the petroleum industry, related businesses, the non-oil economy, infrastructure and local communities, etc) are collected, analysed and submitted in a report to *Stortinget* in a "*Stortingsmelding*" ("Meld. St." which is comparable to a UK White Paper), including a recommendation with regard to opening new area(s) for petroleum activities. The report is then subject to parliamentary debate.

A *Stortingsmelding* is a report by the government on its policies. It is debated, but is not formally

adopted. The government may have to return to *Stortinget* to implement its policies because they require legislative or budgetary decisions.

Award of Upstream Petroleum Licences

The PA and PR establish the legal basis for awarding all upstream petroleum licences. Obligatory documents executed pursuant to a production or facilities licence (the JOA and the ACC) have dual functionality. They contain conditions for exercising rights pursuant to the concession, but at the same time form a contractual agreement between licensees (see below).

Only the government may conduct petroleum activities without being issued a concession, licence or permit. Government activities must be conducted in accordance with the rules of the upstream petroleum regime. The NPD awards non-exclusive exploration licences. The MPE prepares, announces and obtains cabinet approval for the award of exclusive production licences. Applications for licences require the payment of a nominal fee.

Application for a Production Licence

Prior to announcing the licensing rounds, pre-qualified industry players are invited, on a voluntary and confidential basis, to nominate acreage. Only prequalified entities may submit an application for a production licence. Prequalification follows a defined process.

A production licence is awarded to a group of applicants compelled to form an unincorporated joint venture. Individual and group applications are permitted. The MPE is not bound to award the licence according to group applications and may exclude any group applicant or include other applicants in the licence awarded. Awards are based on objective and non-discriminatory terms and conditions consistent with EU internal market rules implemented pursuant to EEA obligations.

Public bidding rounds

Production licences are awarded pursuant to public bidding rounds. Awards are based on geo-scientific understanding, the applicant's operational and financial capacity, experience and plans for the area. Each production licence is awarded on a standard formula to which a Petroleum Agreement is annexed. The Petroleum Agreement establishes the unincorporated joint venture under which licensees are jointly and severally liable. Annexed to the Petroleum Agreement are a non-negotiable Exhibit A, a standard joint-operating agreement, and Exhibit B, a standard accounting agreement. An executed Petroleum Agreement is a condition for the production licence to remain in force.

Variations between production licences are normally limited to licence acreage, the licensees and their respective participation interests in the licence, the voting rules, the appointed operator (which is one of the licensees), the obligatory work programme and any individual limitations on activities of a geographical or seasonal character.

Award of Exploration Licences

Non-exclusive exploration licences are awarded according to an "open door" policy. The licence is limited to three years. It enables seismic companies and other interested entities to collect seismic data and carry out other exploration-related activities, including drilling a shallow well for calibration purposes.

A single entity may be awarded an exploration licence. Additional regulatory and reporting requirements must be fulfilled before and during activities. A non-exclusive exploration licence does not extend any privilege, preference or right of any nature to obtain an exclusive production licence.

Frontier acreage licensing rounds

Frontier acreage licensing rounds currently occur on a bi-annual basis. An exception subsequent to a political settlement between the centre-left Labour Party-led minority government and the Socialist Left party was made, resulting in the 26th Licensing Round being postponed by a year. This may be the advent of a new regime. The annual licensing rounds – Awards in Pre-defined Areas (APA) – consist of acreage previously licensed and relinquished or in proximity to existing upstream production facilities. The initial exploration period is shorter and the content of the obligatory work commitment or programme is stricter in APA licences, but all production licences contain an obligatory work programme. Increasingly, APA-Round licences comprise obligations to submit a plan for development and operation (PDO) within a relatively short deadline.

Three blocks identified to reach north of the (biological) ice rim were expunged and were not included in the acreage offered in June for the 2022 APA Round. Their removal was the outcome of a compromise between the Labour-led minority government and the Socialist Left Party for the adoption of the annual national budget in May 2022.

Award of Facilities Licences

Facilities licences are not awarded based on bid rounds. They are a licence awarded to construct and operate facilities. Facilities licences typically comprise installations or pipelines serving several production projects under different production licences. They may also comprise offshore wind farms dedicated to the supply of electricity for petroleum project purposes (see **6.3 Energy Transition Considerations**).

Licensees normally form an unincorporated joint venture. Previously, such facilities licences were obtained almost exclusively by entities

that at the same time have a direct interest in one of more production projects in which these licensees have a participating interest. This has somewhat changed over the years, in particular in relation to those submarine pipelines that were absorbed into the GassLed natural gas submarine pipeline network that supplies natural gas to the EU and the UK.

State Participation

State participation is no longer mandatory, but discretionary. Lately, it has only been imposed on a limited number of production licences. When state participation is imposed, the participating interest is held by the SDFI and managed by Petoro.

2.3 Typical Fiscal Terms Under Upstream Licences/Leases

Taxes

All entities engaged in NCS petroleum resources activities are subject to Norwegian income and capital gains tax. Entities holding an exclusive production licence or a facilities licence are also subject to special petroleum tax. Effective from 15 June 2022 the temporary COVID-19 mitigation scheme applies to projects that submit a plan for development and operations (PDO) before the end of 2022. Effective from 17 June 2022 a new cashflow-based petroleum special tax regime applies to all new projects that do not fall under the temporary COVID-19 mitigation scheme. Transition rules apply for older projects (see **2.4 Income or Profits Tax Regime Applicable to Upstream Operations**).

Norm Price System

For fiscal purposes, a norm price system is stipulated on crude oil transactions not traded at arm's length. The amendments made to the upstream petroleum tax regime in 2020 and 2022 will not affect the regulation of norm prices.

Local Content Quotas

No economic terms are negotiated in petroleum licences. Whether the state participates is the government's discretionary decision. There are no local content quotas for material, goods, services or employment of personnel.

Production Bonuses

Production bonuses may be imposed pursuant to law, but this provision has never been used. No production or profit splits are authorised and there are no longer any royalty obligations.

Societal Obligations

There are no longer societal obligations in kind or in cash. Licensees have to offer the government the possibility to allow civil servants and petroleum sector teachers to participate in licensee training programmes.

Additional Fees

An administrative fee for services rendered has to be paid for all licence applications. These fees are to reimburse the public administration's costs. There are fees to be paid to the regulatory authorities for the monitoring and control of petroleum activities. These fees have no fiscal nature or effect.

For production licences, an annual progressive acreage fee applies for acreage held beyond the period initially allocated to perform the obligatory work commitment. The fee does not apply to acreage comprised in an approved development plan.

In special circumstances, the PA allows the state to impose a fee for approval of transfer of licence rights or rights associated with upstream facilities. This fee may entail payment beyond the costs associated with services provided. No fee has been imposed to date.

2.4 Income or Profits Tax Regime Applicable to Upstream Operations

A company tax-resident in Norway is subject to income tax on its worldwide income according to the General Tax Act (GTA). The Petroleum Tax Act (PTA) extends the geographical scope of the GTA to include income generated by companies that is related to petroleum activities subject to the Norwegian tax jurisdiction.

The PTA contains special rules relating to taxation of petroleum activities with regard to cost allocations, deductions, depreciations, etc. The PTA introduces the statutory basis for the collection of the resource rent arising from the production of petroleum. The PTA tax rate pursuant to this regime is 56%. The GTA corporate income tax rate is 22%. The marginal tax rate on entities holding exclusive petroleum rights is 78%.

The PTA applies to all offshore upstream and downstream petroleum activities and all extraction, processing and pipeline transportation and, additionally, to certain ancillary activities onshore arising out of offshore petroleum resources. An example is the Arctic onshore LNG production facility at Melkøya in the county of Finnmark. The tax authorities may determine that an onshore plant connected to the production of petroleum will be included under the PTA tax regime. Ancillary activities are otherwise only subject to the ordinary corporate income tax rate of 22%.

Tax Value of Cost Refunded

Operational costs, including exploration, are tax-deductible when incurred. A licensee may claim a cash refund for the tax value of direct and indirect NCS-related exploration costs (financial costs excluded). A cash refund may only be claimed if the amount does not exceed the annual loss in ordinary income and only against special tax.

The COVID-19 mitigation scheme introduced in June 2020 temporarily increased the uplift and depreciation rates for investments subject to the special tax regime. A new special tax regime was introduced on 17 June 2022 with effect on all new projects that do not fall under the COVID-19 temporary regime. For older projects, transition rules apply.

For a description of the COVID-19 2020 interim amendments in the PTA and the new cash flow-based special petroleum tax regime applicable from 2022, see **2.3 Typical Fiscal Terms Under Upstream Licences/Leases** and **6.5 Material Changes in Oil and Gas Law or Regulation**.

2.5 National Oil or Gas Companies

The state may take a direct interest in an exclusive petroleum licence by reserving a participation interest for the SDFI. Any state interest is held by the SDFI and managed (almost without exception) by Petoro AS. SDFI participation is no longer obligatory or “carried” during the exploration phase. The SDFI contributes economically according to its share and subject to cash-calls issued by the operator, from the awarding of the licence until completion of facilities decommissioning.

Equinor and its subsidiaries no longer have any privileges or preferences with regard to participation in exclusive upstream licences, but compete for any participation interest and for appointment as an operator.

Norway is a member of the EEA and is thus part of the EU internal market. Non-discriminatory rules, including the four freedoms, apply to upstream and downstream petroleum activities and entities. The non-discriminatory obligation in principle only applies to legal or physical persons resident in EEA jurisdictions. Unless special circumstances apply, such as UN or EU-mandated sanctions, the non-discriminatory practice

applies to all entities. See **4.2 Sanctions Applicable to Investment Abroad.**

2.6 Local Content Requirements Applicable to Upstream Operations

The EEA internal market's rules apply to petroleum activities, including procurement.

Local content provisions granting preferences to Norwegian-owned or controlled suppliers, goods, services, personnel or capital originating from Norwegian sources are not permitted under the applicable law. The PA requirement that supply bases may have to be located in Norway for the purpose of resource management, health, safety and emergency preparedness is not a local content requirement. The requirement of licensee organisation in Norway is not a local content requirement. It is an individually based assessment of the need for local organisation to fulfil the licensee's obligations, in particular in relation to HSE.

Norwegian is the administrative language and the PR require the use of Norwegian to the greatest extent possible. This rule is imposed for the same reasons as the organisation and supply base provisions, to ensure safe and prudent operations in compliance with applicable Norwegian law. It also enables government to access all relevant licensee internal communication and resources for the verification of compliance, as well as efficient co-ordination of resources in case of emergency. Furthermore, all applications for authorisations of any kind and all administrative decisions by the authorities are made in Norwegian. Other languages may be used when necessary or reasonable, however – typically, in contracts and communication with foreign suppliers.

2.7 Requirements for a Licence/ Leaseholder to Proceed to Development and Production

Only the state and holders of a production licence may develop and produce NCS petroleum deposits. Pursuant to PA Chapter 4 and PR Chapter 4, the licensees must submit a development plan for MPE approval to produce petroleum. The plan must consist of two parts: a technical and economic plan with detailed descriptions, as well as a progress plan. The development plan must contain a description of alternative development solutions and the licensee's preferred solution.

The second part of the plan is a comprehensive area-specific and activity-specific environmental impact assessment (EIA), as stipulated by statutory provisions. The assessment is based on a previously approved programme for data collection and assessment. The EIA report is publicly consulted by concerned stakeholders and is a public domain document.

Staged or phased developments are permitted, provided they are all addressed in the development plan. Development and production from deposits other than those addressed by the plan require a new or amended plan. The obligation to submit a development plan may be waived under certain conditions by the MPE. Deadlines for submitting PDOs are shorter for APA-Round licences than for production licences awarded in numbered licensing rounds.

Unless MPE pre-approval is obtained, licensees may not commit to substantial contractual undertakings before the development plan has been approved. Licensees may apply to the MPE to waive this obligation – ie, for long-lead items.

A summary of the development plan and a request for the consent of *Stortinget* may be required. This is the case when the SDFI invest-

ment is above the threshold previously stipulated in the annual state budget, or when raising particularly important policy or state revenue issues.

The MPE is not compelled to approve licensees' preferred development solution. If the authorities cannot accept the proposed solution, consultation with licensees to amend the plan will be initiated. A decision to approve or reject a development plan is an administrative law-based decision subject to appeal.

Any significant deviation from facts or alteration of terms and conditions on which a submitted development plan was approved must immediately be communicated to the MPE.

2.8 Other Key Terms of Each Type of Upstream Licence

The maximum duration of the exploration period, and the development and production period of a production licence are stipulated by law. The exploration period, calculated from the award date, cannot exceed ten years. The most commonly used initial exploration period is eight years for frontier areas, which is reduced for APA.

The exploration period may be subdivided and always contains a number of obligatory work commitments. There are statutory mandatory acreage relinquishment obligations stipulated in each production licence. In APA licences, all acreage regularly reverts to the state if the acreage does not comprise a deposit included in a submitted development plan. Restrictions are often imposed, normally for HSE purposes, particularly to protect the marine environment or to address severe weather conditions.

The development and production period is calculated from the end of the initial (exploration) period for 30 years, in exceptional cases up to 50 years, comprising development, including

construction and commissioning of facilities, and production of the deposit(s) included within the development plan.

2.9 Requirements for Transfers of Interest in Upstream Licences and Assets

No direct or indirect transfer of all or part of a participating interest, or change of control over a licensee, may take place without the approval of the MPE. All such transfers must also be cleared for tax purposes (explicit consent or notification of compliance) by the Ministry of Finance (MFIN). Transfer of a participating interest is also regulated by the petroleum agreement regulating the unincorporated joint venture formed by the licensees.

Petoro AS, on behalf of the state, has a limited pre-emption right in exclusive petroleum licences. No transfer of production licence rights approved prior to completion of the mandatory work obligations is permitted without the consent of the other licensees. Corporate transactions are not subject to approval by the other licensees. The protection of the other licensees' interest in a production licence is safeguarded by MPE approval pursuant to the PA, Section 10–12.

A production licence participating interest transfer will only be permitted to a qualified entity. The MPE assessment is focused on the transferee's potential contribution to the licence, and whether the transferee has the required capacity, capabilities and financial strength to participate actively in activities going forward. Requirements for approval are dynamic and hence different for an early-phase exploration project compared to a complex development or production project. The NPD and PSA are consulted prior to approval. Participating interest and change of control transfer approvals may be conditional.

An application for the transfer of operatorship may not form part of a participating interest or assets transaction. A change of operator is subject to a separate MPE approval. No tax assessment is required for operator changes since the operator conducts day-to-day business on behalf of licensees on a “no-gain, no-loss” basis.

The MFIN assesses the tax effects of any proposed transfer. A notification and automatic consent procedure for four standardised transaction models where the transaction tax effect is neutral has been established by regulation. Consent is obtained provided the parties confirm in writing to the MFIN that the transaction meets requirements. Without such a declaration, a formal Petroleum Special Tax Act Section 10 assessment will be undertaken. MFIN approvals may be conditional. Under the PTA, MFIN is delegated the power to deviate from applicable tax laws if necessary to ensure tax neutrality.

Any change of participation interest in an exclusive licence must be registered in the Petroleum Registry. Establishment or change of any type of security in an exclusive licence or upstream facility requires MPE approval. Providers of security will only be afforded limited step-in rights in the case of default.

Non-exclusive licences are not normally transferred, as they are time-limited and contain no obligatory work commitment.

2.10 Legal or Regulatory Restrictions on Production Rates

Production Permits

Production may only be conducted in accordance with an approved development plan and a production permit. The production permit is issued subsequent to the authorities having satisfied themselves that the licensees comply with regulations, in such a manner that petroleum or reservoir pressure is not wasted and consistent

with the development plan production-profile. The production permit system ensures optimal resource depletion. The licensee has to justify and document any deviation from the development plan and the forecast production profile. The production permit has been used in a few instances to regulate the production level at individual production projects. Limitations have in each case been justified for state economic reasons and implemented so that individual licences carried the economic impact proportionally.

Production Volumes

The government regularly approves production volumes. Volumes are stipulated to ensure optimal recovery of petroleum and are not imposed to regulate prices or markets. Norway is not an OPEC member. However, the Norwegian government has a major economic stake as resource owner and tax collector. With a substantial interest in commercial operations on the NCS through the SDFI. Thus, the Norwegian government has been forced, from time to time, to cut oil production due to extreme market developments. The last time this happened was May 2020, when the King in Council decided to cut production by 250,000 b/d in June 2020 and by 132,000 b/d for the second half of 2020. Additionally, the commencement of production on several fields was delayed to 2021. The cuts and the delays resulted in a reduction in Norwegian production of 300,000 b/d in December 2020. The natural gas demand increased sharply with the reopening of the economy in late 2021 and increased further after the 24 February 2022 renewed military aggression by Russia against Ukraine. In spring 2022, the Norwegian government adjusted production permits for a small number of projects. The amended permits allowed an increase in natural gas production, but with the result that this for the first time would deliberately leave liquids in the ground. Since the introduction of the resource management principles in 1971, the government has not,

with regard to liquids production, deviated from what has colloquially been referred to as the ten oil commandments (banning flaring, not allowing waste of petroleum or reservoir pressure that would prevent socio-economic optimal recovery of all petroleum in the ground).

3. PRIVATE INVESTMENT IN PETROLEUM: MIDSTREAM/DOWNSTREAM

3.1 Forms of Allowed Private Investment in Midstream/Downstream Operations

The Norwegian petroleum activities governance regulatory regime is divided into two segments. Upstream regulated by the 1996 Petroleum Act (PA) and downstream regulated by the 2002 Natural Gas Act (NGA). The Norwegian regime does not specifically single out midstream as a separate regulatory space.

Upstream

The Norwegian upstream petroleum regime regulates all petroleum activities and facilities upstream of the defined delivery point for petroleum transported in bulk as a commodity.

Any petroleum activities or facilities located downstream of the delivery point defined for production, except the downstream natural gas sector, are regulated by a variety of laws generally applicable to the industrial sectors.

Downstream

Investment in downstream activities or infrastructure, except for natural gas transmission and distribution pipelines and natural gas or LNG storage or LNG regasification plants, is guided by the same regulatory regime as any ordinary industrial activity that involves the construction, operation or use of infrastructure.

Investment in the construction, operation and use of downstream natural gas and the LNG infrastructure is subject to the Act of 28 June 2002, No 61 on common rules for the internal market in natural gas (NGA), and the subsequent MPE regulations of 14 November 2003 (NGR). These rules are consistent with the EU third internal market natural gas regulatory package, implemented in Norwegian law as part of Norway's EEA obligation.

Property Rights

NGA and NGR rules do not regulate the rights of either landowners or property right-holders. If access to property cannot be gained based on agreements with the landowner(s) or property right-holder(s), and for this reason has to be enforced, that enforcement must be executed through the ordinary statutory material and procedural rules applicable to expropriation. Any expropriation is subject to compensation. Both expropriation and compensation may be contested before the ordinary courts.

There are no state or private monopolies with regard to investment in upstream or downstream pipelines, landing terminals, plants or refineries.

3.2 Rights and Terms of Access to Any Downstream Operation Run by a National Monopoly

EU internal market third-party access rules, based on negotiated access as implemented in the NGA and the NGR, apply (see **3.1 Forms of Allowed Private Investment in Midstream/Downstream Operations**).

There are no state or private monopolies with regard to investment in downstream natural gas facilities. Access to downstream natural gas networks, storage or LNG plants, is subject to negotiation with the system owner and operator. Access is subject to the applicable law and is granted on non-discriminatory terms and condi-

tions consistent with EU internal market requirements.

3.3 Issuing Midstream/Downstream Licences

Pursuant to the NGA, the NGR and by delegation from the MPE, a concession for the establishment of natural gas transmission pipelines and certain other high-pressure natural gas pipeline networks must be obtained from the Regulatory Authority for Energy (“RME”). The same applies for qualified standalone LNG production or regasification projects or natural gas storage not covered by PA regulation (ie, not incorporated in an upstream production project).

Land rights must be obtained from the landowner(s) or property right(s)-holder(s), while construction permits and environmental permits must be obtained from other competent authorities, in some cases from regional or local authorities.

3.4 Typical Fiscal Terms and Commercial Arrangements for Midstream/Downstream Operations

The delineation between upstream and downstream is outlined in **3.1 Forms of Allowed Private Investment in Midstream/Downstream Operations**. The Norwegian petroleum regime in principle follows the same legal and regulatory delineation. Downstream licences related to natural gas, as well as downstream activities related to any other activities downstream of the commodities delivery point (see **3.2 Rights and Terms of Access to Any Downstream Operation Run by a National Monopoly**), are subject to the ordinary Norwegian tax and fiscal regime (GTA). The upstream petroleum special tax regime does not apply. Tariffs are based on the norms implemented in Norwegian law consistent with the EU internal market rules applicable to downstream natural gas activities.

3.5 Income or Profits Tax Regime Applicable to Midstream/Downstream Operations

Downstream licences are subject to the ordinary Norwegian tax and fiscal regime. The GTA, with a corporate income tax rate of 22%, applies. The upstream petroleum special tax regime does not apply.

3.6 Special Rights for National Oil or Gas Companies

No such company or special rights exist in relation to downstream petroleum activities or licences. However, Gassco AS is the wholly state-owned sole Gassled system operator (see **1.3 National Oil or Gas Company**).

3.7 Local Content Requirements Applicable to Midstream/Downstream Operations

No local content requirements are applicable to downstream operations by private investors. See comments on jurisdictional delineation between upstream, midstream and downstream in **3.1 Forms of Allowed Private Investment in Midstream/Downstream Operations**.

3.8 Other Key Terms of Each Type of Midstream/Downstream Licence

The terms of downstream licences (concessions), are determined by the NGA, the NGR and the RME. A concession pursuant to the NGA/NGR is only required for larger scale or inter-regional projects.

Norwegian legislation contains mandatory obligations relating to the use and operation of natural gas transmission pipeline systems, storage and LNG plants with regard to third-party use, tariffs and providing information to the authorities, users, consumers and the public. Dispensations or exemptions may be granted pursuant to the law. The concession may otherwise contain specific individual conditions necessary for the

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protection of public or private interests within the limits of public administrative discretionary power. Such power is limited by public administrative law as outlined in the Public Administration Act, related regulations and customary law.

Concessions are granted subject to application. Concessions are granted for 30 years, but may be extended. Individual conditions may be stipulated with regard to system operational safety, and gas supply quality, price and regularity, including the security of the supply, energy efficiency and for reasons associated with climate change.

There is no standardised concession or licence. Conditions to be implemented must be objective, transparent and non-discriminatory. Legislation is based on and consistent with Norwegian EEA obligations for the energy sector as formulated for the EU internal market in natural gas. Specific terms for the application and award of a concession are outlined in Chapter 2 of the NGR.

3.9 Condemnation/Eminent Domain Rights

See **3.1 Forms of Allowed Private Investment in Midstream/Downstream Operations**.

3.10 Rules for Third-Party Access to Infrastructure

EU third-party access rules, based on negotiated access as implemented in the NGA and the NGR, apply. See **3.1 Forms of Allowed Private Investment in Midstream/Downstream Operations**, and **3.8 Other Key Terms of Each Type of Midstream/Downstream Licence**, as applicable.

3.11 Restrictions on Product Sales Into the Local Market

No such restrictions apply, except for during a declaration of national emergency, in which case, emergency legislation comes into force.

3.12 Laws and Regulations Governing Exports

EU internal market rules, including the four freedoms, the prohibition of quantitative (import and) export restrictions and competition law, apply to petroleum marketing and sales.

Beyond limitations following from international sanctions binding on Norway, or domestic delivery obligations pursuant to law (under extraordinary circumstances), licensees are in principle free to export all the petroleum produced (see **4.2 Sanctions Applicable to Investment Abroad**).

Most of the liquid volumes are loaded onto tankers offshore. Some volumes are landed by submarine pipelines for onshore final processing before being shipped. All natural gas not consumed for production purposes or re-injected is exported through large submarine trunk pipelines to the UK and the EU. The exception is Snøhvit natural gas production, shipped to market as LNG.

Currently, no liquids are reserved for the domestic market. Domestic supply obligations are unlikely to be imposed due to SDFI volumes available to the government.

Emergency Rules

The emergency rules for supply in cases of national emergencies or war are included in the PA and are non-discriminatory. The rules are established in line with applicable exceptions to EEA internal market rules. None of these rules has been invoked to date. Deliveries compelled under these rules will be paid for at rates consistent with market prices. Given the Norwegian energy mix, it is unlikely that the state will have to rely on these provisions to secure domestic supply as long as there is substantial production on the NCS and the state holds a substantial participating interest in several production

projects. Only crude oil and other liquids may theoretically be required, as Norway consumes practically no natural gas at all. All energy supply for purposes other than transportation is satisfied by hydroelectric-generated power.

3.13 Requirements for Transfers of Interest in Midstream/Downstream Licences and Assets

To establish or operate a larger-capacity downstream natural gas pipeline system, storage or LNG plant, a licence (concession) is required. The limited distribution and small-scale LNG plants and storage facilities currently operating do not require a specific NGA/NGR licence. There are no natural gas transmission systems in Norway. Only qualified entities may hold a licence. Each licence may contain non-discriminatory and objective conditions. EU internal energy market principles requiring vertical unbundling apply.

The same applies to LNG production facilities to the extent such facilities are not comprised of an upstream production project (see **2.8 Other Key Terms of Each Type of Upstream Licence** and **6.2 Liquefied Natural Gas (LNG) Projects**). Downstream petroleum facilities other than those used for downstream natural gas purposes, such as crude oil or petroleum products storage, are not regulated by Norwegian petroleum-dedicated legislation, but are subject to a host of Norwegian laws applicable to large industrial facilities handling hazardous products or processes.

4. FOREIGN INVESTMENT

4.1 Foreign Investment Rules Applicable to Domestic Investments in Petroleum

Due to its EEA obligations, Norway has implemented the EU four freedoms of movement of goods, services, capital and persons. Competi-

tion law applies, consistent with these obligations, including the right of establishment.

4.2 Sanctions Applicable to Investment Abroad

Norway adheres to sanctions and embargoes imposed by the UN. Norway has to date implemented most EU sanctions imposed against Russia, whether related to outward or inward investments, as well as the operations of Russian-controlled entities, Russian entities or persons, for Russia's invasion of Ukraine (2014 and 2022).

5. ENVIRONMENTAL, HEALTH AND SAFETY (EHS)

5.1 Principal Environmental Laws and Environmental Regulator(s)

See comments under **1.1 System of Petroleum Ownership** and in particular, **1.4 Principal Petroleum Law(s) and Regulations**.

The relevant ministries and directorates are listed under **1.1 System of Petroleum Ownership**. All relevant websites related to the upstream and downstream sectors of ministries and directorates may be accessed at www.regjeringen.no.

In addition to the authorities described under **1.1 System of Petroleum Ownership**, the competent directorate with regard to downstream natural gas transmission, distribution and storage regulations is the Norwegian Water Resources and Energy Directorate: www.nve.no.

5.2 Environmental Obligations for a Major Petroleum Project

The licensee, owner or users (as the case may be) must fulfil certain requirements in order to obtain permits pursuant to the provisions of the Pollution Control Act applicable to certain

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discharges and emissions. Adapted to the relevant circumstances, these rules apply along the upstream and downstream value chain.

For further information, see **2.2 Issuing Upstream Licences/Obtaining Petroleum Rights**, relating to the conduct of area (SEA) and activity-specific EIAs, as well as **2.2 Issuing Upstream Licences/Obtaining Petroleum Rights** and **2.7 Requirements for a Licence/Leaseholder to Proceed to Development and Production** on applicable pollution control legislation.

For downstream projects, whether subject to an NGA/NGR licence or not, the requirements for EIAs follow from the Act of 27 June 2008, No 71 on planning and building matters (the Planning and Building Act/PBA) and the regulations of 21 June 2017, No 853 on environmental impact assessments (REIA).

5.3 EHS Requirements Applicable to Offshore Development

Pursuant to the provisions of the PA Chapter 2 and the PR Chapter 2a, the state conducts comprehensive EIAs prior to opening acreage for petroleum activities (see **2.2 Issuing Upstream Licences/Obtaining Petroleum Rights**, **2.7 Requirements for a Licence/Leaseholder to Proceed to Development and Production** and **5.2 Environmental Obligations for a Major Petroleum Project**).

The EIAs cover the impact on the natural environment, industry and infrastructure, and societal impacts such as on employment. The resultant report is submitted to *Stortinget* for consideration and support of a recommendation on whether to open new areas to offshore petroleum activities.

The applicant for a facilities licence must, before any development and production or facility

licence is awarded, conduct an area and activity-specific EIA (again, see **2.2 Issuing Upstream Licences/Obtaining Petroleum Rights**, **2.7 Requirements for a Licence/Leaseholder to Proceed to Development and Production** and **5.2 Environmental Obligations for a Major Petroleum Project**). The EIA is conducted in a fashion comparable to the initial or subsequent specific EIA. It must be based on updated information and additional investigation as specified in an approved EIA programme.

The PA and PR regulating petroleum activities and facilities related to offshore petroleum resources, contain a suite of special rules. The PA Chapter 7 contains specific rules on liability for pollution damage. The PA Chapter 8 contains specific rules relating to compensation for Norwegian fishermen. The PA Chapter 9 contains specific rules on safety.

5.4 Requirements for Decommissioning

Cessation of activities, decommissioning and potential disposal of facilities are regulated by the PA Chapter 5 and the PR Chapter 6. Wells are not considered facilities in relation to decommissioning. Plugging and abandonment of wells are not included in a decommissioning plan. Decommissioning legislation is consistent with requirements that follow from ratified treaty obligations such as UNCLOS, the London Anti-dumping Convention and the OSPAR Convention.

A development plan must contain information of a general nature with regard to the decommissioning of facilities and removal of installations.

To date, submarine pipelines do not have to be removed. Flowlines and umbilicals connecting installations within the same development area are normally considered part of installations and are required to be removed. Flowlines and umbilicals between installations located in differ-

ent development areas or connected to onshore facilities are also normally removed.

A description of plans for future decommissioning is already required in the plan for development and operations (PDO) comprising one of more petroleum deposits and appurtenant production facilities and commodity offtake solutions, or applications for a licence to install and operate facilities. The licensee holding a participating interest in an exclusive petroleum licence, or the owner of a facility, is obliged to submit a decommissioning plan no earlier than five years, and no later than two years, prior to the planned cessation of petroleum (operations) activities or use of a facility. A plan may comprise one of more facilities in one or more areas.

If licensee(s) or owner(s) fail to submit a decommissioning plan or implement an approved decommissioning plan, the authorities may cause a third party to undertake preparation of the plan or to implement an approved plan at the risk, liability and cost of the licensee or owner.

5.5 Climate Change Laws

Rules apply with regard to emissions into the air and discharge into the land or sea under the Pollution Control Act, including fiscal disincentives in the form of, eg, the CO₂ tax. The CO₂ tax rate applies to onshore and offshore upstream and downstream petroleum (operations) activities. The CO₂ tax rate is higher for downstream activities (not comprised by regulated quotas) and for the use or consumption of petroleum products than for upstream production activities. However, all new and select modified upstream production facilities are subject to compulsory electrification based on supplies from onshore hydropower or offshore wind projects. There is also a limitation of emissions to the air of NO_x and volatile components.

5.6 Local Government Limits on Oil and Gas Development

Regional and local government has no power with regard to oil or gas production volumes (see **2.10 Legal or Regulatory Restrictions on Production Rates**). However, regional and local authorities, through powers pursuant to the PBA, may have an impact on industrial activities, including downstream oil and gas projects through their zoning and thus, on the use of land.

6. MISCELLANEOUS

6.1 Unconventional Upstream Interests

Norway has not opened for exploration or production of shale or other unconventional petroleum resources. In any case, these are expected to be limited, as most of the Norwegian land territory is base rock.

6.2 Liquefied Natural Gas (LNG) Projects

There is only one LNG production project in Norway. The project is governed by the upstream petroleum regulatory regime (PA and PR) and tax regime (GTA and PTA). A special project-specific solution granting licensees an augmented uplift for tax purposes was established for this particular project. A few small-scale LNG regasification plants are in operation. They are so modest in size that the NGA/NGR do not require a particular licence (concession).

6.3 Energy Transition Considerations Electrification of Offshore Petroleum Production

Norway has for several years imposed as a condition for the approval of new upstream petroleum production projects that offshore installations must be powered by electricity supplied from shore rather than from turbine on-board installations. All electrification projects so far entail the construction of new facilities or modi-

fication of existing facilities. Electrification of offshore projects is primarily achieved by using electricity from onshore hydropower projects. Imports may play a part at times as well as, increasingly, onshore and offshore wind power.

Offshore Renewable Energy Production

The first offshore wind farm, referred to as Hywind Tampen, for the supply of electricity for offshore petroleum production is being completed. This project's construction, operation and use are regulated by petroleum legislation. The government has developed the base framework for offshore renewable energy production for the purpose of supply to the national grid. Two areas have been identified, for which licences are expected to be awarded by the end of 2022. Discussions are ongoing with regard to the potential development of Trollvind, which is intended to supply offshore production facilities with electricity, as well as supply surplus power to the national grid in the western region of the country.

CO₂ Injection and CCS Projects

So far, dedicated CO₂ injection in sub-sea deposits has not been undertaken unless it is associated with the production of petroleum. Subject to the PA and environmental law ban on venting and flaring, CO₂ extracted from petroleum deposits as well as natural gas, but not consumed for petroleum production purposes or sold, has been reinjected into the petroleum deposits to maintain reservoir pressure.

Norway has passed legislation and developed a concessionary regime for the construction, operation and use of offshore sub-sea reservoirs for the injection of CO₂ from power-generating, industrial and other projects' consumption or use of coal or hydrocarbons. These dedicated reservoirs have the required storage characteristics. The first carbon capture and storage (CCS) facilities licence was awarded in 2021.

The government had previously initiated and substantially financially supported the CCS projects referred to as Northern Light and Longship. These programmes entailed the construction of an onshore terminal for the reception of CO₂ to be transported by submarine pipelines to dedicated offshore sub-sea facilities in order to be injected into seabed deposits. Pursuant to an invitation in April 2022, the government in June 2022 awarded two more CCS licences (Smeaheia in the North Sea and Polaris in the Barents Sea).

6.4 Unique or Interesting Aspects of the Petroleum Industry

The regulatory regime is heavily resource management-oriented and standardised, with substantial direct non-carried state participation. The regime is considered, transparent, predictable and accountable. In contrast to most regimes, disputes between investors and regulatory authorities, and between licensees, are subject to the ordinary courts. The parties may resort to arbitration or other conflict-resolution mechanisms in disputes between licensees or investors and suppliers, or among suppliers.

Norway is considered to have stricter rules applicable to HSE, including a ban on any upstream-related flaring and venting, as well as restrictions on discharges to the sea, than most producers. All-new production projects are subject to assessment for electrification eligibility. Power produced from onshore hydropower has until now been the source of energy for offshore electrification purposes. Hywind Tampen will be the first offshore wind project to supply offshore petroleum production projects. Norway is also considered to have strict decommissioning provisions in place for offshore facilities.

The standardised production licence and its annex, the petroleum agreement, are subject to Norwegian law. Mandatory licence terms require

all contracts relating to or arising out of petroleum activities pursuant to an exclusive petroleum licence, to be governed by Norwegian law and to be in accordance with Norwegian contract traditions.

6.5 Material Changes in Oil and Gas Law or Regulation

Continental Shelf Law

A new law on the continental shelf that came into force on 18 June 2021 now regulates the geographical delineation of the Norwegian continental shelf. The law caused the definition of the continental shelf, as included in PA Section 1–6 (l), to be substituted with a reference to the definition included in Act 18 June 2021, No 89 on the Norwegian continental shelf. The new definition takes due consideration of the need to delineate the Norwegian continental shelf beyond 200 nautical miles of baselines in several places. Due to COVID-19 and the consequent rapid drop in oil prices in the first quarter of 2020, *Stortinget* requested the minority government to propose measures that could stimulate further investments in the Norwegian upstream sector.

Amendments to the Petroleum Tax Law

On 15 June 2020, interim amendments to the petroleum tax law to mitigate the expected negative effects of COVID-19 on the petroleum sector industry and its vital economic importance as a major employer were enacted by *Stortinget*. The intention of the temporary regime was to increase liquidity and thereby maintain investments in the industry. Two main amendments introduced into the petroleum special tax regime (included in a new Section 11) were as follows.

- To allow the full cost of pipelines or production facilities, including a 24% uplift, to be charged as an expense in the costs incurred that year. The arrangement covers all such costs incurred after 12 May 2020 through to

2021, as well as any such future costs that follow from PDOs or plans for installation and operation (PIOs) submitted before 2023 and approved prior to 2024.

- To let licensees subject to petroleum special tax claim direct payout of the tax value of the deficits and non-utilised uplift for 2020 and 2021. The expected tax value for the year in question will be paid out in advance, through bi-monthly instalments.

Petroleum Special Tax Regime

A major shift in the Norwegian fiscal regime, applicable to the petroleum special tax effective from 17 June 2022, has been adopted by *Stortinget*. The new petroleum special tax regime comprises all new petroleum projects subject to petroleum special tax that do not fall under the temporary COVID-19 mitigation regime described in **2.3 Typical Fiscal Terms Under Upstream Licences/Leases**. The new special tax regime is a cash flow-based tax system, allowing immediate deductions for investments as and when incurred against income subject to petroleum special tax. Uplift, accelerated linear depreciation, loss carried forward with interest, annual tax-value cash back of exploration costs and refund of deficit at exit from Norwegian upstream petroleum activities have been abolished. Transition provisions are in place for older projects not covered by the COVID-19 mitigation scheme. No changes have been implemented in the GTA, which applies to all entities subject to Norwegian tax, irrespective of sector.

Adjustment of Production Permits

Another example of recent oil and gas regulation changes is the government's adjustment of production permits under the PA Section 4-4 allowing increased natural gas out-take to mitigate the effects of the cut in Russian natural gas supplies to the EU. See also **2.10 Legal or Regulatory Restrictions on Production Rates**.

NORWAY LAW AND PRACTICE

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Advokatfirmaet Simonsen Vogt Wiig is one of Norway's largest full-service firms, with 180-plus fee earners and offices in Oslo and major Norwegian cities, as well as an office in Singapore. Simonsen Vogt Wiig (SVW) has one of Norway's most powerful oil and gas teams, consisting of dedicated upstream lawyers and a host of specialists in other fields serving oil and gas clients, domestically and internationally. It provides legal services to international majors and independents as well as international and Norwegian supply and oil service companies.

The firm's services comprise the full life cycle and all aspects of the activities of oil and gas players. SVW advises governments on legal framework development (commercial, resources and HSE), public international law and negotiation of treaties, production-sharing contracts, and service and development contracts. The international practice comprises assistance to international energy companies on new ventures and investments, transactions and international pipeline projects.

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Trends and Developments

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Introduction

The last couple of years have been more tumultuous for the oil and gas sector than the past few decades. Recent developments have been largely influenced by the COVID-19 pandemic, the simultaneous drop in the oil price, and the June 2020 interim Norwegian petroleum tax package to incentivise investments on the Norwegian continental shelf (NCS), followed by a considerable increase of energy and electricity prices from mid-2020, escalating further following the Russian invasion of Ukraine. The effects of a number of farm-outs by majors and mergers among other players, has reduced the number of operators on the NCS, reinforcing Equinor's already very dominant position. Among the mergers, the AkerBP-Lundin merger is the most notable, having followed the Eni-HitecVision merger resulting in the creation of Vår Energi which was listed successfully in early 2022.

During the last two years, the Norwegian petroleum special tax regime has undergone several unusually swift and dramatic changes. In this article, we will focus on the continued and current effects of changes to the tax regime, as well as other recent energy policy decisions, trends and observations in the market. Special focus is placed on the energy transition towards investment in environmentally sustainable solutions and renewable energy.

Fundamental Changes in the Petroleum Policy

Two major changes have lately evolved in the long-term petroleum policy of Norway. Firstly, several changes have recently been introduced in the long-established licensing policy. The

changes have appeared in a new political setting where the ruling Labour-led minority government has sought political compromise with parties to the left. These changes represent responses to political pressure arising out of environmental concerns. Secondly, dramatic changes had to be made due to fundamental shifts in the energy market. These changes have political support across the political spectrum, even among the most ardent environmentalists.

Licensing policy

Subsequent to last year's general election, the new Labour-led minority government has had to reach several political compromises with the Socialist Left Party. Among the compromises was to postpone the 26th frontier acreage licensing round. This was followed by another compromise this spring with the withdrawal of acreage to be offered in the annual licensing rounds referred to as "Awards in Predefined Areas" (APA). APA consist of previously licensed and relinquished acreage or acreage in proximity to existing upstream production facilities. Three blocks identified to reach north of the (biological) ice rim were removed from acreage offered in June this year for the 2022 APA Round.

Additionally, it has become accepted in wider political circles that the year-long hotly debated acreage in environmentally sensitive and important spawning areas for the Arctic cod in Lofoten and Vesterålen, will not be offered in the frontier area biannual licensing rounds.

Production policy and production permits

Following the dramatic upheaval in European security and energy markets caused by the

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second Russian invasion of Ukraine in February 2022, the Norwegian government for the first time deviated from its established petroleum production policy. The Norwegian petroleum policy, including the granting of production permits pursuant to applicable law, stems from what has colloquially been referred to as the “ten oil commandments”. These principles include banning flaring, not allowing any waste of petroleum and not allowing reservoir pressure depletion, preventing optimal recovery of all petroleum in the ground.

While the government has twice curtailed production in the past, it has never deviated from requiring licensees to ensure that all economically recoverable petroleum is produced. Until now that has entailed balancing natural gas out-take, thus securing liquids production before the gas out-take reduces reservoir pressure. In view of the shortage of natural gas in the European market caused by the Ukraine crisis, the government amended production permits for a small number of projects. The amended permits allow an increase in natural gas production, but with the result that this would deliberately leave some liquid volumes in the ground. Together with other measures taken by licensees, this is expected to increase the Norwegian natural gas export volumes to the EU and the United Kingdom by 10% in 2022, thereby reaching 122 bcm/a.

Norway has invited the EU, which has now responded positively to closer energy co-operation. The intention of the Norwegian government is to remain a large, stable and reliable natural gas supplier to Europe for the intermediate term. Increased Norwegian volumes will require additional investments in new projects and production facilities, including submarine pipeline capacity. This may entail some longer-term commitment from the European side to underpin investments. Increased Norwegian production cannot, however, completely substitute the 155

bcm/a historically delivered by Russia, but may substantially contribute to mitigating some of the shortfall to come.

Increased low-emission production and delivery of Norwegian natural gas, combined with the cross-border, open-source CO₂ transport and storage infrastructure network enabled by the Northern Lights and Longship projects, will assist towards European security of supply in a time of crisis. It will also contribute to the energy transition to a lower carbon-emission future.

Amendments to the Fiscal Regime

Due to the continuous changes in the world economy and energy markets, Norway has implemented several amendments to its petroleum fiscal regime. Initially to mitigate the negative effects of the COVID-19 pandemic, and this year to prepare the sector for its new stages of development.

Effects of the temporary 2020 COVID-19 tax incentive package

On 20 June 2020, Norway introduced the temporary COVID-19 mitigation scheme, the aim of which was to mitigate the negative effects expected to arise out of the pandemic.

The main changes introduced by the 2020 COVID-19 tax incentive package allowed immediate deduction of investment costs and an increase in the uplift rate in the special tax base (tax rate of 56%). These temporary changes applied to all investments made in 2020 and 2021, and will also apply for investments covered by a plan for development and operation (PDO) or a plan for installation and operation (PIO) – to obtain a facility licence – submitted by 1 January 2023 and approved by the government by 1 January 2024. The main effect of the temporary changes is that the oil companies will be able to reduce their tax payments in the short upcoming period due to the immediate deduction for investments;

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however, the tax payable will increase in later years when there are no deductions.

The Norwegian Petroleum Directorate (NPD) has described how the effects of the temporary COVID-19 tax incentive package already materialised in 2020–2021, but that the greatest effect is expected to come in 2022 and 2023. In 2021 Equinor Energy AS, Aker BP ASA and OKEA ASA received approvals for a total of six PDOs. During the first quarter of 2022, a further four PDOs have been approved with Equinor Energy AS and Aker BP AS as operators. The SEB investment bank expects a total of 32 development plans will be submitted for approval in 2022 alone. The total investment of these projects is expected to surpass USD36 billion, distributed over the next few years. In mid-2021, the NPD expected that the projects due for investment decisions before the end of 2022 would represent more than 650 million standard cubic metres of oil equivalents.

Permanent changes to the petroleum tax regime for the NCS

The government announced on 31 August 2021 a proposal for a total overhaul of the petroleum tax regime. The proposal entailed substituting the existing regime and in its place introducing a cash-based petroleum tax regime. The amendments were initially proposed by the previous Conservative Party-led centre-right government. The proposal was circulated for public comment in early September 2021. With the change of government in mid-September 2021, the new Labour-led centre-left minority government submitted a bill with an almost identical proposal to *Stortinget* (Norwegian national assembly) in spring 2022. The bill was adopted and the amended Petroleum Tax Act came into force in mid-June 2022, effective for the 2022 tax year. It is notable and surprising that these substantial changes to the tax regime for the oil and gas industry on the NCS were made rapidly and with limited debate.

The new legislation introduces a cashflow-based system for the special tax (with a special tax rate of 56%). The amendments do not affect the overall tax rate of 78% applicable to activities subject to the petroleum special tax regime. However, because corporate income tax will be deductible from the special tax, the special tax rate itself will be increased to 71.8%.

The new regime only applies to new investments, not investments prior to or during the applicability of the temporary COVID-19 incentives package. The amendments entail that all investments in assets (production facilities and pipelines) subject to the petroleum tax regime will be expensed immediately under the special tax in the investment year. The new, immediate and direct expense recognition replaces the current depreciation rules of the PTA. Nevertheless, the temporary rules on depreciation, uplift and loss carry forward, introduced in Section 11 of the special tax law in 2021 to incentivise the industry during COVID-19, will continue as described above. The General Taxation Act applicable to all sectors maintains unamended depreciation rules.

The change takes into account both the increase itself and the present value effect of the investments being depreciated in year one against the increased special tax rate. Under the rules prior to the COVID-19 temporary regime and the 2022 new regime, these expenditures were depreciated over a period of six years. Depreciation rules applicable to ordinary income subject to the GTA continue without amendment. The reduction in the tax value of fixed assets will result in reduced financial cost deductions in the special tax base.

The PTA-based uplift if not comprised by the COVID-19 scheme, is discontinued. The reimbursements of exploration costs incurred (the exploration cash-back regime), the cessation of activities reimbursement and the loss carry

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forward scheme for ordinary income have been removed. Regulations ensuring identical tax treatment of investments in “facilities” by licensees and payments made for leased “facilities” have also been abolished.

Electrification of NCS Production Facilities

NCS licensees and oil service companies are also planning, and in some cases have been taking final investment decisions on, a host of new sustainable development projects and initiatives.

For many years, Norway has been a net exporter not only of crude oil and natural gas, but also of electricity. The electrification of the Norwegian economy started in earnest at the beginning of the last century. In the 1970s, Norway was, primarily for resource conservation purposes, but also due to environmental concerns, among the first to impose a total ban on the flaring associated with oil production. Norwegian natural gas was almost without exception used for oil and gas production purposes, reinjected to maintain reservoir pressure or exported through submarine pipelines to European consumers.

Some years ago, a policy was initiated on the NCS requiring new offshore petroleum production projects to be supplied by power generated from offshore hydropower, to replace offshore fossil fuel generators and compressors. These initiatives, in combination with increases in electricity interconnectors, have resulted in supply squeezes and historically high electricity prices.

Offshore renewable electricity generation by wind turbines was introduced, not only to cover the need for an electricity supply to the offshore petroleum production facilities, but also as a supplier of electricity to the onshore grid. Combined projects or “hybrid projects”, in a Norwegian context meaning projects that supply both the Norwegian market (offshore or onshore) and allow for export electricity to neighbour-

ing countries, have so far not been approved. Electricity generated by offshore wind for supply to the petroleum sector is not regulated in the same way as offshore wind power projects for the purpose of electricity supply to the onshore grid. Electricity supplied to the offshore petroleum industry by offshore wind is regulated by the upstream petroleum regime. Offshore renewable energy generation and transmission, including offshore wind power generation is regulated by *Havenergilova* (the Offshore Energy Act) and regulations to that Act.

In mid-June 2022, Equinor, leading a consortium of upstream licensees, introduced plans for an offshore wind farm 65 km west of Bergen in western Norway, with a potential capacity of 1 GW. The project named Trollvind, would be located nearby the Troll offshore production facilities. Trollvind would supply electricity to Troll and Oseberg petroleum production facilities and the onshore electricity grid. Such combined projects will raise several regulatory and fiscal issues, which need to be sorted out, and has been publicly debated, questioning the forecasted capacity and profitability or need for subsidies.

Energy Transition

As a means to meet the challenges of the energy transition, several initiatives related to emissions reduction have received increased attention from government and industry in the post COVID-19 world. The Russian invasion of Ukraine has given additional incentive to accelerate these initiatives in order to meet future energy needs in Norway as well as to assist Europe in its transition away from its dependence on Russian hydrocarbons.

Development of the offshore wind sector

The development of an offshore wind industry is ongoing at an increasing pace. Several major E&P companies and onshore electricity generators have confirmed plans to develop this

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industry, with the declared intention of building portfolios of offshore wind farms. Among these are Equinor, (Norske) Shell, Vårgrønn (a joint venture between Eni Norway and Norwegian private equity investor HitecVision), Aker Offshore Wind (an associated company of AkerBP and oil service providers Aker Solutions) and TechnipFMC, which are all planning to apply for offshore wind concessions. In June 2022, TotalEnergies declared its intention to play a key role in developing the Norwegian offshore wind industry, joining forces with Iberdrola and Norsk Havind. Among the onshore power generators teaming up with offshore players are Agder Energi, TrønderEnergi and Statkraft.

The government has defined renewable energy generation from offshore wind projects as a major policy focus area. So far, two offshore areas (Sørlige Nordsjø II and Utsira Nord) have been identified and may shortly be subject to applications for concessions. The current minister of petroleum and energy recently declared that he expected the award of offshore wind concessions in 2023. The development of phase one at Sørlige Nordsjø II (with a capacity of 1,500 MW) will be followed by a phase two. The government has stated that its aim is to ensure low electricity prices and it intends to develop auction models as the primary means of allocating acreage for renewable energy production. Sørlige Nordsjø II will be auctioned, while Utsira Nord may be awarded based on competitive bidding with work programmes, R&D and other components being drivers.

Norsk Industri, which organises the Norwegian offshore supply industry, has been actively working to ensure the participation of offshore suppliers in the development of future offshore wind projects. As part of these efforts, Norsk Industri on 15 June 2022 issued the report “Delivery models for offshore wind”.

Carbon capture and storage (CCS)

CCS in Norway is regulated by two separate (but similar) legal frameworks. The CCS activities (capture, transport and storage of CO₂) conducted in relation to petroleum production are regulated by the Petroleum Activities Regulations pursuant to the Petroleum Act. Non-petroleum activity-related CCS operations (surveying and exploration for sub-sea reservoirs, as well as exploitation, transportation and storage of CO₂) are regulated by the separate CCS regulations pursuant to the 1963 Act on scientific research and exploration for and exploitation of sub-sea natural resources other than petroleum and mineral resources.

CO₂ from petroleum production at Sleipner and Snøhvit has been reinjected for many years. These projects are an integrated part of petroleum production. Emerging CCS projects are also otherwise connected to oil and gas investments in a number of ways. Following the pilot CCS project Northern Lights, part of the Longboat project, Equinor together with Horisont Energi and Vår Energi have established a joint venture planning a combined hydrogen production and CCS project in the north of Norway.

Oil and gas companies are looking to invest in CCS projects, either in standalone CCS projects or as part of other activities associated with the petroleum sector. On 5 April 2022, Equinor, Horisont Energi and Vår Energi were awarded a licence to store CO₂ in the Polaris reservoir located in the Barents Sea. The joint venture’s current concept includes utilisation of natural gas from Snøhvit (the Melkøya LNG production plant) to produce (blue) hydrogen and blue ammonia, while at the same time capturing and storing CO₂. The project is named the Barents Blue Project. CO₂ will be liquefied and injected into and stored in reservoirs beneath the seabed of the Barents Sea. Equinor has in addition been awarded a licence for CO₂ storage in the

North Sea, west of Bergen, and together with AkerBP has now got two licences for storage of CO₂ in four separate reservoirs approximately 70 km off the coast of Humberside in the UK. By June 2022, the Norwegian government had also received applications for CO₂ storage licences from CapeOmega AS, Winthershall Dea Norge AS and TotalEnergies EP Norge AS.

The CCS pilot projects have mainly been funded by the government. In connection with the adoption of the temporary COVID-19 incentive package, *Stortinget* also requested the government to expedite investment decisions in CCS projects as an additional measure to maintain steady investments during the pandemic. Projects identified included those projects where pilots had already been ongoing for a number of years. The Longship project, officially adopted by the government and *Stortinget* in October 2020, was one of these projects. The Northern Lights part of this project – a joint venture by Equinor, Shell and TotalEnergies – will be handling the transportation, injection and storage of CO₂. The project is substantially funded by the Norwegian state.

Development of profitable CCS businesses is at an early stage. It is notable that all licences to store CO₂, save for one, have been awarded to upstream oil and gas companies. The exception is Horisont Energi, a new and so far the sole company in Norway dedicated to carbon storage solutions. Profitable CCS businesses are expected to require long-term sustainable customers in need of CO₂ storage. The capture and storage of carbon is a low-margin business (unlike the exploration and production of oil and gas), hence to become commercially viable, large volumes and cost-efficient solutions are key factors to success. It is notable that Horisont Energi is planning to use tailor-made vessels for transportation, while Equinor appears to focus primarily on sub-sea pipelines as its preferred

mode of transport from the customers' delivery point to offshore sub-sea storage.

The acceleration of hydrogen production

A joint venture between Horisont Energi, Equinor and Vår Energi is a combined CCS and hydrogen/ammonia production project. Equinor has also entered into a co-operation agreement with Engie in order to explore the production of (blue) hydrogen based on natural gas from the NCS. A large number of hydrogen production facilities are expected in Norway in the coming years.

As for offshore wind, there is a lack of regulatory and fiscal clarity with regard to what rules apply for combined projects. There is similar lack of clarity where production of hydrogen is based on gas received from a facility subject to the upstream petroleum regime. If the new facilities are regarded as an integrated or necessary part of the production or transportation of petroleum, then the upstream petroleum regime will apply. Whether production facilities fall within or outside the Petroleum Act has several regulatory and fiscal consequences for the investors, facility-users and customers. Until dedicated legislation governing H₂ production projects is enacted, the generally applicable onshore industry regulatory framework applies.

The government describes a “roadmap” for hydrogen in its White Paper “Putting Energy to Work”. The aim is preparing for certain milestones and the realisation of hydrogen production projects and infrastructure. One measure considered is to introduce “contracts for difference” – a concept similar to the one introduced in the UK for low-carbon electricity generation, where the state shares or takes the price risk and guarantees stable income over time.

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Conclusion: Norway's Position in the Developing Oil and Gas Market

Russia's invasion of Ukraine has clearly had an immediate and massive effect on energy markets, including the oil and gas market, with peak oil, natural gas and electricity prices. The oil and gas industry finds itself in a situation of cross-pressure with increased demand for oil and in particular natural gas, while at the same time facing increasing environmental pressures. On the NCS there are significant known, available, but stranded natural gas resources. Due to developments in the international security and

energy supply situation, there is expected to be considerable demand for natural gas in the years to come. It is important for Norway to retain its position as a reliable supplier to Europe and the UK, and to contribute to the needed energy transition via other sources of energy. As described above, there have recently been some changes to the regulatory and fiscal policies surrounding the NCS. However, the government has given no sign of any change to its policy of maintaining a predictable framework for the industry, except for increased focus on the government's participation and involvement in energy transmission.

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Advokatfirmaet Simonsen Vogt Wiig is one of Norway's largest full-service firms, with 180-plus fee earners and offices in Oslo and major Norwegian cities, as well as an office in Singapore. Simonsen Vogt Wiig (SVW) has one of Norway's most powerful oil and gas teams, consisting of dedicated upstream lawyers and a host of specialists in other fields serving oil and gas clients, domestically and internationally. It provides legal services to international majors and independents as well as international and Norwegian supply and oil service companies.

The firm's services comprise the full life cycle and all aspects of the activities of oil and gas players. SVW advises governments on legal framework development (commercial, resources and HSE), public international law and negotiation of treaties, production-sharing contracts, and service and development contracts. The international practice comprises assistance to international energy companies on new ventures and investments, transactions and international pipeline projects.

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