

OIL REGULATION

Norway



Oil Regulation

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Quick reference guide enabling side-by-side comparison of local insights into oil industry issues worldwide, including commercial, policy, regulatory, licensing and legal system overview; expropriation provisions; license revocation and amendment mechanisms; state participation; royalties, taxes and tax stabilisation; joint ventures; reservoir unitisation; guarantees and security deposits; transfer to third parties; title to facilities and equipment; decommissioning and abandonment; transportation; cost recovery; health and safety; environmental; labour; tax; commodity price controls; competition; seismic data; treaty, foreign ownership and cross-border sale considerations; and recent trends.

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GENERAL**Key commercial aspects**

Describe, in general terms, the key commercial aspects of the oil sector in your country.

Hydrocarbons have been produced on the Norwegian continental shelf (NCS) since 1971, and the oil and gas industry is the single most important contributor to the Norwegian economy. Norway is Europe's second-largest oil producer (after Russia). In 2021, crude oil and natural gas amounted to 42 per cent of the total value of Norway's exports. The base estimate of the Norwegian Petroleum Directorate (NPD) for total proven and unproven petroleum resources on the NCS is about 15.9 billion standard cubic metres. Of this volume, only 50 per cent has so far been produced.

At the end of 2021, 94 fields were producing on the NCS, while a total of 88 discoveries could be considered for development in the future. A majority of these discoveries are small, and could, if proven to be economical, be developed as satellites to existing fields. Five new fields started production in 2021, Duva, Martin Linge, Solveig, Ærfugl Nord and the Yme field.

Norwegian oil production reached a peak in 2001, when total liquid production (including natural gas liquids and condensate) reached 3.4Mboe/d. The production then declined until 2013 but, since 2014, has been increasing slightly again. The total production of oil and gas (condensate and natural liquid gas included) reached approximately 231 million standard cubic metres in 2021, which is 2 per cent higher than in 2020. The NPD estimates that the overall production from the NCS will increase slightly during 2022–2023, among others as a consequence of phase 2 of the major Johan Sverdrup field being scheduled to come on stream.

The government's total net cash flow from the petroleum industry in 2021, including the dividend from Equinor and various fees, was estimated to be approximately 272 billion Norwegian kroner. This is a significant increase compared with 2020, mainly because of higher oil and gas prices. The surplus created by petroleum income to the state is deposited in the Government Pension Fund. As of 20 April 2022, its total value was approximately 11.5 trillion Norwegian kroner.

The investment level on the NCS has previously been relatively high. In 2021, investment in oil and gas activities, excluding exploration, totalled approximately 147 billion Norwegian kroner, a slight decrease compared with 2020. Investment in the petroleum sector accounts for about 20 per cent of total investment in productive capital in Norway.

Law stated - 01 January 2022

Energy mix

What percentage of your country's energy needs is covered, directly or indirectly, by oil or gas as opposed to nuclear or non-conventional sources? What percentage of the petroleum product needs of your country is supplied with domestic production?

Norway has the world's largest per capita hydropower production and a large part of the country's total energy consumption comes from hydropower. All of Norway's petroleum consumption is supplied by domestic production. The daily oil consumption is, however, very low compared with its oil output potential and it is unlikely that Norway will need foreign oil supplies to meet domestic needs in the coming decades.

Law stated - 01 January 2022

Government policy

Does your country have an overarching policy regarding oil-related activities or a general energy policy?

The Norwegian petroleum industry is based on the principles of sustainable development. Taking this into account, the government and the industry itself have a strong focus on enhanced technology, health, safety and the environment. There is also a strong focus on increased exploration, both in mature and unexplored areas, and increased oil recovery.

Law stated - 01 January 2022

Registering a licence

Is there an official, publicly available register for licences and licensees? Is there a register setting out oilfield ownership or operatorship, etc?

The Norwegian Petroleum Register is the official publicly available register listing all production licences and licensees on the NCS, including information on operatorship, change of company name, among others. The register is electronic and enables licensees to obtain legal protection when mortgaging their participating interest in a production licence, which is an arrangement of great importance for oil companies with limited financial resources. In respect of registration of mortgages, a fee amounting to 10 times the standard court fee must be paid to the NPD. For 2022, the standard court fee is 1,223 Norwegian kroner. Proof that the fee has been paid should be enclosed with the request for registration. The register is available through the NPD fact pages at www.npd.no.

There is no official register on oilfields, but vital information about the various oil fields is found on both Norsk Petroleum (www.norskpetroleum.no) and the NPD (www.npd.no). Information provided includes the production licence(s) that forms part of the oilfield, operatorship, licensees, participating interests etc.

Law stated - 01 January 2022

Legal system

Describe the general legal system in your country.

Norway is a civil law jurisdiction, and statutory legislation passed by the Norwegian parliament is the main source of law. There are also important fields of law that are not legislated. Notably, tort law and contract law are, to a large extent, made up of non-statutory law.

The Norwegian judiciary branch has three tiers:

- the district courts (23);
- the appeal courts (six); and
- the Supreme Court.

Unlike many other jurisdictions, the district courts have jurisdiction over all cases. Hence, there is no division of ordinary courts and administrative courts, criminal courts and civil courts, or a separate constitutional court. Civil and criminal cases can be appealed to the appeal courts. Appeal to the Supreme Court is restricted. Further, it is recognised that the fact that courts create case law, in particular from the Supreme Court, is important when a specific legal question is assessed.

Norwegian contract law has a different approach to the interpretation of contracts than, for instance, English law.

Norwegian law prescribes, as a general rule, that a contract obligation shall be interpreted in accordance with the common intentions of the parties at the time the contract was entered into. When a party is claiming a specific understanding, all circumstances related to the contract are relevant and can be invoked in support of this understanding. If no common understanding can be established, the meaning will be established through an interpretation of the contract where the starting point is the wording.

Any other circumstances related to the contract are also relevant in the interpretation and their weight will be determined on a case-by-case basis. Although the above characteristics remain as the basic starting point of construction of contracts under Norwegian law, a series of decisions of the Supreme Court suggests that the significance of an objective interpretation on the basis of the contract wording is increasing in Norwegian law, in particular when interpreting contracts between professional parties. Based on this trend in the Supreme Court's approach to the construction of contracts between professional parties, it can be said that Norwegian law is moving towards a more common law approach to interpretation, although Norwegian law does not contain the strict Anglo-American rules prohibiting the production of evidence related to the formation of the contract.

Norway is a stable democracy with an independent judiciary generally considered to be unbiased and fair. Domestic judgments and arbitral awards are easily enforced. Norway is a party to the Lugano Convention, ensuring the enforcement of judgments in the European Union and European Economic Area. Further, Norway is also a member state of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention), ensuring the enforcement of foreign arbitral awards.

Norwegian legislation against corruption is among the strictest in the world. The Norwegian General Civil Penal Code contains provisions applicable to corruption and bribery. The rules apply to public officials as well as private persons. Persons, as well as legal entities, may be subject to criminal liability. Moreover, aiding and abetting is subject to the same penalty. Norway has also ratified the following Conventions:

- the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1997;
- the Council of Europe Criminal Law Convention on Corruption 1999;
- the Council of Europe Civil Law Convention on Corruption 1999; and
- the United Nations Convention against Corruption 2003.

Law stated - 01 January 2022

REGULATION OVERVIEW

Legal framework for oil regulation

Describe the key laws and regulations that make up the principal legal framework regulating oil and gas activities.

The main statute providing the legal framework relevant for petroleum activities on the Norwegian continental shelf (NCS) is the Petroleum Act, which regulates subsea activities and onshore activities that form an integrated part of the offshore petroleum production. Detailed rules and adaptations are set out in the appurtenant Petroleum Regulation of 27 June 1997 No. 653. Onshore petroleum activities not governed by the scope of the Petroleum Act are regulated by the Onshore Petroleum Act of 4 May 1973 No. 21. To date, no onshore exploration and production activities have been conducted in Norway.

The petroleum activities on the NCS are regulated by a licensing system administered by the Ministry of Petroleum and Energy (MPE) and the Norwegian Petroleum Directorate (NPD), and there are two distinct licences that may be granted by the MPE – exploration licences and production licences. In addition, a specific licence to install and operate pipelines is also granted by the MPE.

The award of a production licence is, pursuant to the Hydrocarbons Licensing Directive (94/22/EC), made on impartial, objective and non-discriminatory criteria whereby the applicant's technical expertise, financial strength, geological understanding and experience on the NCS, or similar areas, will be weighted.

Exploration and production licences are awarded separately, and an exploration licence will not necessarily be awarded prior to a production licence. Exploration licences are granted for a period of three calendar years, unless otherwise specifically stipulated in the licence. Production licences are granted for an initial period of up to 10 years and if the licence is granted for a shorter period of time, the MPE may subsequently extend the licence period within the 10-year limit. When the licensees have fulfilled the mandatory work obligations set out in the production licence, the production licence may be further extended. A possible extension period is, as a general rule, up to 30 years, but may, under specific circumstances, be up to 50 years.

Offshore areas regarded as mature parts of the NCS are subject to a simplified annual licensing round referred to as 'awards in predefined areas'. Areas not regarded as mature are, on the other hand, subject to ordinary licensing rounds, which, traditionally, have been held every second year. Applicants being prequalified as upstream petroleum companies can apply individually or as a group. Companies being awarded a production licence are obliged to enter into a joint venture, which normally is established through a decision made by the MPE at the date the production licence is awarded.

The joint venture is governed by a standard joint operating agreement (JOA) and an accounting agreement stipulating detailed rules pertaining to, inter alia, the role of the management committee and the operator, and the licensees' rights and obligations. The daily activities in the joint venture are conducted by the operator on behalf of the licensees. The award of a production licence is conditional upon the companies' signature to the JOA and the accounting agreement.

If the licensees decide to develop the petroleum deposit, a plan for development and production must be submitted to the MPE for approval, see the Petroleum Act section 4-2. The MPE shall also approve the production schedule stipulated by the licensees.

In addition to ordinary awards, licences on the NCS can also be obtained through direct or indirect transfer of assets. Such transactions require the consent of both the MPE and the Ministry of Finance. See the Petroleum Act section 10-12 and the Petroleum Taxation Act of 13 June 1975 No. 35 section 10.

Decisions of subordinate bodies may be appealed to the relevant ministry in charge. Further, decisions made by the ministries as a first instance may be appealed to the King in Council (government). Administrative decisions may also, to the extent all administrative rights of appeal have been exhausted, be appealed to ordinary courts. In such cases, the court may normally only assess the procedure and application of law, not the administrative authority's application of discretion.

Law stated - 01 January 2022

Expropriation of licensee interest

Are there any legislative provisions that allow for expropriation of a licensee's interest and, if so, under what conditions?

No.

Law stated - 01 January 2022

Revocation or amendment of licences

May the government revoke or amend a licensee's interest?

The government may not amend a licence interest after it has been awarded. A licence granted under the Petroleum Act may be revoked by the government in the case of serious or repeated violations of the Act, regulations issued by it, stipulated licence terms or conditions or orders issued pursuant to the Act.

In addition, if an application for a licence contains incorrect information, or if information of significance has been withheld, and it must be assumed that the licence would not have been granted had correct or complete information been available, the licence may be revoked in relation to the licensee concerned.

Revocation is also an option if the security that the licensee is obliged to provide pursuant to the Petroleum Act has become significantly weakened or if the company or other association holding the participating interest in the licence is dissolved or enters into debt settlement proceedings or bankruptcy proceedings.

Despite the wide range of alternatives that may qualify for a revocation of a licence or participating interest in a licence, the Norwegian government has so far never exercised this power.

Law stated - 01 January 2022

Regulators

Identify and describe the government regulatory and oversight bodies principally responsible for regulating oil exploration and production activities in your country. What sanctions for breach may be imposed by the regulatory and oversight bodies?

The MPE, together with Ministry of Finance (MoF), the Ministry of Labour and Social Inclusion, the Ministry of Climate and Environment and the Ministry of Trade, Industry and Fisheries, are the main governmental offices responsible for petroleum activities on the NCS.

The MPE has overarching responsibility for managing petroleum resources. It is also responsible for the state-owned companies Petoro AS and Gassco AS. Petoro manages the state's direct financial interest in petroleum activities and is organised as a private limited company. Petoro is not empowered with any regulatory authority and conducts activities on the same terms and conditions as the other licensees. The NPD is administratively subordinate to the MPE and plays a key role in the management of petroleum activities.

MoF has overall responsibility for ensuring that the state collects taxes and fees (eg. corporate tax, special tax, CO2 tax and NOx tax) from petroleum activities. The Petroleum Tax Office, which is part of the Norwegian Tax Administration, reports to MoF. Its primary task is to ensure the correct levying and payment of taxes and fees adopted by the political authorities.

Additional important authorities are the Petroleum Safety Authority (PSA), which sits under the Ministry of Labour and Social Affairs and has regulatory responsibility for technical and operational safety, including emergency preparedness and the working environment in petroleum activities. The Ministry of Climate and Environment and the Environment Agency are responsible for all environmental issues related to petroleum activities, including granting requested permissions to pollute. Finally, the Norwegian Coastal Administration, which sits under the Ministry of Transport, is responsible for the state's preparedness for oil spills.

Equinor is the largest Norwegian oil company and was partly privatised in 2001 with the Norwegian state as the major shareholder. Equinor competes with all other companies as to the award of licences and has no regulatory power or special privileges related to petroleum activities on the NCS.

Various sanctions may be imposed due to a licensee's breach of the Petroleum Act with appurtenant regulations. Wilful

or negligent violations of provisions or decisions issued in or pursuant to the Petroleum Act are punishable by fines or imprisonment. The PSA may issue a legally binding individual order to a company in breach of the health, safety and environment regulations and issue day penalties until all obligations under the order are fulfilled. If needed, owing to a safety concern, the PSA may also require temporary suspension of the petroleum activities, among others.

Although not a sanction, the authorities do take into account the experience of a licensee's compliance with the regulatory framework when granting production licences. A poor track record owing to breaches of regulatory requirements may, therefore, be decisive for the authorities' decision not to award any production licence to a company.

Law stated - 01 January 2022

Government statistics

What government body maintains oil production, export and import statistics?

Norsk Petroleum (www.norskpetroleum.no) maintains and publishes annual statistics for oil production, export and import. In addition, Statistics Norway (www.ssb.no) is responsible for analysing the statistics.

Law stated - 01 January 2022

NATURAL RESOURCES

Title

Who holds title over oil reservoirs? To what extent are mineral rights on private and public lands involved? Is there a legal distinction between surface rights and subsurface mineral rights? At what stage does title to extracted oil transfer to the licensee, lessee or contractor?

According to the (offshore) Petroleum Act and the analogous Onshore Petroleum Act of 4 May 1973 No. 21, the Norwegian state has the proprietary right to all offshore and onshore petroleum deposits and the exclusive right to resource management. However, the Ministry of Petroleum and Energy (MPE) is empowered to grant licences to explore, produce and extract petroleum. There is no legal distinction between surface rights and subsurface mineral rights. The title to the extracted oil passes to the licensees once the oil has passed the wellhead.

Law stated - 01 January 2022

Exploration and production – general

What is the general character of oil exploration and production activity conducted in your country? Are areas off-limits to exploration and production?

Norwegian oil exploration and production is, to date, solely conducted offshore. Prior to opening a new area for petroleum activities, the MPE is responsible for carrying out an impact assessment that, inter alia, shall include a description of the area planned to be opened, a review of the environmental effects of the petroleum activity versus national environmental goals and the assumed impact on employment and commercial activities. At present, certain areas within the Norwegian jurisdiction are off-limits to exploration and production. The situation may, however, change because of future impact assessments and a subsequent decision by the government to open up new areas for petroleum activities.

Law stated - 01 January 2022

Exploration and production – rights

How are rights to explore and produce granted? What is the procedure for applying to the government for such rights? To what extent are the terms of licences or contracts negotiable?

Two distinct licences are granted by the MPE – the exploration licence and the production licence. In addition, a specific licence to install and operate pipelines is also granted by the MPE. The exploration licence is not exclusive and does not give a preferential right if a production licence is granted at a later stage. A production licence is, on the other hand, exclusive, which implies that it gives the licensee or licensees a sole right to conduct surveys, explore and produce within the geographical area set by the production licence. It should be noted that exploration and production licences are awarded separately and that an exploration licence will not necessarily be awarded prior to a production licence. In respect of the exploration licence, a fee amounting to 65,000 Norwegian kroner per calendar year shall be paid in advance of the application. For handling an application for a production licence, a fee of 109,000 Norwegian kroner will apply. For every seismic survey on the Norwegian continental shelf (NCS), a fee amounting to 33,000 Norwegian kroner must be paid.

Offshore areas regarded as mature parts of the NCS are subject to a simplified annual licensing round referred to as 'awards in predefined areas'. Areas not regarded as mature are subject to ordinary licensing rounds, which traditionally have been held every second year. Applicants that are prequalified as upstream petroleum companies can apply individually or as a group. Based on the applications submitted, production licences are awarded to a group of companies forming a joint venture on the basis of relevant, objective, non-discriminatory announced criteria. One of the licensees is further appointed as an operator.

The applicants are offering specific work programmes for the geographical area governed by the application. The government's offer for the award of a production licence will include a proposed work programme, which may be altered through negotiations between the MPE and the companies being offered participating interests in the production licence. The final work programme is, however, normally identical with the MPE's proposal.

It is a condition under the production licence that the activities under the joint venture are governed by a standard joint operating agreement and a standard accounting agreement, which means that the terms in these agreements are not negotiable.

If the licensees decide to develop the petroleum deposit, a plan for development and operation (PDO) must be submitted to the MPE for approval. The MPE shall also approve the production schedule stipulated by the licensees. Additionally, licences can be obtained through a transfer of assets. Such transactions require the consent of both the MPE and the Ministry of Finance. The licensees obtain ownership in the petroleum produced equal to their relative share in the production licence.

Law stated - 01 January 2022

Government participation

Does the government have any right to participate in a licence? If so, is there a maximum participating interest it can obtain and are there any mandatory carry requirements for its interest? What cost-recovery mechanism is in place to recover such carry? Does the government have any right to participate in the operatorship of a licence?

The Norwegian state participates in petroleum activities on the NCS through the state's direct financial interest (SDFI). The participating interest held by the SDFI in production licences, pipelines and specific land-based plants is managed by Petoro. Petoro is a licensee and participates on equal terms and conditions as all other licensees. Petoro only

participates in selected licences, but there are no limitations on the maximum participating interest to be reserved to the SDFI as from the date of award; however, Petoro's share will normally be less than 50 per cent. Petoro does not hold operatorships.

Law stated - 01 January 2022

Royalties and tax stabilisation

If royalties are paid, what are the royalty rates? Are they fixed? Do they differ between onshore and offshore production? Aside from tax, are there any other payments due to the government? Are any tax stabilisation measures in place?

Licensees granted a production licence pay an annual fixed fee known as an 'area fee' to the state, effective from the expiration of the initial period of the production licence, which may be up to 10 years. The fees are as follows:

- for the first year the fee is 38,000 Norwegian kroner per square kilometre;
- for the second year the fee is 76,000 Norwegian kroner per square kilometre; and
- 153,000 Norwegian kroner per square kilometre is the fee for the following years.

If a PDO has been submitted to the authorities, the licensees may be exempted from the obligation to pay the area fee for the area defining the deposits included in the PDO.

A production fee is only applicable to fields where the PDO was approved by the authorities prior to 1 January 1986, implying that a production fee is not applicable to any new field developments on the NCS.

The Norwegian petroleum tax regime is stable, but no specific tax stabilisation measures have been implemented to prevent onerous taxes being levied in the future.

To date, no onshore exploration and production activities have been conducted in Norway.

Law stated - 01 January 2022

Licence duration

What is the customary duration of oil leases, concessions or licences?

Exploration licences are granted for a period of three calendar years, unless otherwise specifically stipulated in the licence.

Production licences are granted for an initial period of up to 10 years. If the licence is granted for a shorter period of time, the MPE may subsequently extend the licence period within the 10-year limit. When the licensees have fulfilled the mandatory work obligations (including other applicable obligations) set out in the production licence, they may require the production licence to be extended. The possible extension period is stipulated in the applicable production licence, and shall, as a general rule, be up to 30 years, but may under specific circumstances be up to 50 years.

Law stated - 01 January 2022

Extent of offshore regulation

For offshore production, how far seaward does the regulatory regime extend?

For offshore production, the regulatory regime extends to the outer limits of the continental shelf (as defined in the United Nations Convention on the Law of the Sea 1982) and may also be extended beyond the outer limits of the continental shelf if established through international law or through bilateral agreements with foreign states. The delimitation of the continental shelf between Norway and Denmark, the Faroe Islands, Iceland, Russia, Sweden and the United Kingdom respectively has been mutually agreed in separate agreements, while the delimitation between Norway and Greenland has been settled by the International Court of Justice.

Law stated - 01 January 2022

Onshore offshore regimes

Is there a difference between the onshore and offshore regimes? Is there a difference between the regimes governing rights to explore for or produce different hydrocarbons?

Exploration and production of petroleum onshore is governed by the Onshore Petroleum Act of 4 May 1973 No. 21. To date, there has been no onshore exploration or production in Norway. The Petroleum Act, which governs offshore petroleum exploration and production, applies to exploration and production of all types of hydrocarbons and provides much more detailed rules than the analogous Onshore Petroleum Act.

Law stated - 01 January 2022

Authorised E&P entities

Which entities may perform exploration and production activities? Describe any registration requirements. What criteria and procedures apply in selecting such entities?

Different requirements exist depending on whether an exploration or production licence has been granted. The MPE may grant an exploration licence to a body corporate irrespective of whether the company is domiciled, registered, or both, in Norway. Exploration licences may also be granted to physical persons domiciled in a state within the European Economic Area (EEA). Production licences may, as a starting point, only be granted to a body corporate established in conformity with Norwegian legislation and registered in the Norwegian Register of Business Enterprises. However, pursuant to the EEA Agreement, companies applying for a production licence may also be established in an EEA state. In addition, production licences may be granted to a physical person domiciled in an EEA state. The award of a production licence is based upon the applicant's technical expertise, financial strength, geological understanding and experience on the NCS or similar areas. In the case of a group application (as opposed to an individual application), the composition of the group and the group's collective competence will be evaluated.

Law stated - 01 January 2022

Regulatory powers over operators

What controls does the regulatory body have over operators? Can operatorship be revoked?

Licensees and operators on the NCS are highly qualified and the authorities do not normally interfere with the daily work carried out by operators. The authorities may be present with an observer in the management committee meetings and both the MPE and the Norwegian Petroleum Directorate (NPD) receive various licence reports from the

operator overseeing that the resource management is conducted in a proper manner.

The authorities' control of the resource management conducted by the operator on behalf of the licensees is more effectively carried out through the participants' need to obtain specific consents and approvals to conduct petroleum activities throughout the various phases of the petroleum activities (the step-by-step approach). The MPE and NPD are responsible for granting consents and approvals applicable to resource management.

The Petroleum Safety Authority (PSA) is responsible to ensure that petroleum activities conducted by the operator and the other participants comply with the HSE regulatory framework, and the PSA has a risk-based and system-orientated approach focusing on management systems and critical activities as part of their planned audits and random controls.

The operator is dependent on the trust and confidence of both the other licensees and the authorities. The operator may, subject to a six-month prior written notice with reasoning, be dismissed by unanimous vote by the management committee, and the MPE may revoke the operatorship when warranted for special reasons. The authorities' right to revoke the operatorship is a 'safety net', but the threshold will typically be met if the company has conducted its task as an operator in a manner that has caused general mistrust by the authorities. If the mistrust is because of a lack of sufficient safety standards, the PSA will be responsible for conducting the assessment and eventually recommending that the MPE utilise its power to change the operator.

Law stated - 01 January 2022

Joint ventures

What is the legal regime for joint ventures?

Companies acquiring a production licence are obliged to enter into an unincorporated joint venture, which is normally established through a decision made by the MPE at the date of award of a production licence. The joint venture is governed by a joint operating agreement (JOA) and an accounting agreement that stipulates detailed rules pertaining to, inter alia, the role of the management committee and the operator, and the licensees' rights and obligations. The JOA and accounting agreement are standard agreements concluded by the MPE (after receiving input from the Norwegian Oil and Gas Association as the representative of the industry). Amendments and alterations to the JOA or the accounting agreement shall be approved by the MPE. The award of a production licence is conditional upon the companies' signature to the JOA and accounting agreement.

Law stated - 01 January 2022

Reservoir unitisation

How does reservoir unitisation apply to domestic and cross-border reservoirs?

If a petroleum deposit on the NCS extends over more than one block with different licensees, or onto the continental shelf of another state, the licensees shall, pursuant to the Petroleum Act, seek to find a mutual agreement on the most efficient coordination of the relevant activities and apportionment of the petroleum deposits. Similar principles shall apply with regard to trans-boundary petroleum deposits, but any development of such fields is subject to bilateral agreements between Norway and the respective countries. For information purposes, Norway and the United Kingdom have entered into a framework agreement establishing the main principles applicable to development of cross-border reservoirs.

The Norwegian Oil and Gas Association has developed a set of standard terms and conditions that the parties involved may decide to apply in specific unitisation processes on the NCS.

Law stated - 01 January 2022

Licensee liability

Is there any limit on a party's liability under a licence, contract or concession?

Licensees are jointly and severally liable to the state for financial obligations arising out of petroleum activities pursuant to the licence. There is no maximum limit on the party's liability.

Law stated - 01 January 2022

Guarantees and security deposits

Are parental guarantees or other forms of economic support common practice or a regulatory requirement? Are security deposits required in respect of any work commitment or otherwise?

According to the Petroleum Act section 10-7, the MPE may decide that a licensee shall provide security for fulfilment of the obligations that the licensee has undertaken in relation to petroleum activities. Traditionally, the MPE has only requested the ultimate parent company of a subsidiary being represented on the NCS to provide a parental guarantee (PCG), meaning that the MPE has not requested stand-alone companies to provide any guarantee with a similar scope as the parental guarantee. The PCG shall be unlimited.

On 20 March 2020, the Norwegian Supreme Court gave an important judgment clarifying the scope of the standard PCG. The question was whether the Norwegian state could utilise the PCG to claim repayment of individual tax refunds (in this instance related to the costs of acquiring seismic data), claimed to be received unlawfully from the Norwegian state. The Supreme Court held that both the Petroleum Act section 10-7 (authority to require security) and the standard PCG only apply to obligations undertaken in accordance with petroleum activities as a licensee in a production licence, while individual company obligations undertaken outside the scope of a production licence are not governed by the Petroleum Act section 10-7 and the PCG. The seismic data acquired was not related to any production licence held by the company, and the Supreme Court consequently ruled that the Norwegian state's claim was both outside the scope of the legislation and the PCG. It remains to be seen whether the MPE will propose amendments to the Petroleum Act and draft a new standard PCG for new licensees entering the NCS.

There is no general requirement to provide security deposits. A guarantee or equivalent security to ensure fulfilment of all regulatory requirements is, however, required in respect of an application for injection and storage of CO₂ in a subsea reservoir on the NCS. The financial guarantee shall be valid and effective when injection starts.

If a company holding production licences on the NCS is transferring its shares to a new legal entity, the MPE will normally request a standard guarantee from the ultimate parent of the seller to ensure fulfilment of the secondary financial liability for decommissioning costs as outlined in the Petroleum Act section 5-3(3). If the requested standard guarantee for decommissioning costs is not provided, the original parental guarantee will remain in force until the alternative financial liability is no longer applicable.

Law stated - 01 January 2022

LOCAL CONTENT REQUIREMENTS

Minimum requirements

Must companies operating in your country prefer, or use a minimum amount of, locally sourced goods, services, capital or personnel?

There are no local content requirements in Norway.

Social programmes

Describe any social programme payment obligations that must be made by a licensee, lessee or contractor.

There are no regulatory or statutory requirements to conduct payments under social programmes by a licensee.

Law stated - 01 January 2022

TRANSFERS TO THIRD PARTIES**Approval to transfer interests**

Is government consent required for a company to transfer its interest in a licence, concession or production sharing agreement? Does a change of control require similar approval? What is the process for obtaining approval? Are there any pre-emptive rights reserved for the government?

Pursuant to the Petroleum Act, a transfer of assets in production licences is subject to the prior consent of the Ministry of Petroleum and Energy (MPE). The requirement also applies to the purchase of at least one-third of the shares in a company holding a production licence. A corresponding consent related to the tax consequences must, according to the Petroleum Taxation Act, also be obtained from the Ministry of Finance.

The state has, through the state's direct financial interest, a pre-emption right in all production licences being transferred on the Norwegian continental shelf (NCS). The pre-emption right is exercised through Petoro and should only be exercised in special cases. To date, the pre-emption right has never been exercised, but for each transfer, Petoro will, within 40 days after being notified about the transfer, evaluate whether to exercise the pre-emption right. The pre-emption right does not, however, apply to transactions involving a transfer of shares.

It is difficult to estimate the time frame for obtaining approval from the MPE, because it may vary from one week to many months. Factors that may influence the process are, inter alia, whether the assignee is a company already established on the NCS, the complexity of the transaction and the financial situation of the assignee. The application for approval is free of charge, but if a mortgage in the participating interests being transferred is registered in the Norwegian Petroleum Register, a fee amounting to 10 times the standard court fee must be paid. For 2022, the standard court fee is 1,223 Norwegian kroner.

Law stated - 01 January 2022

Approval to change operator

Is government consent required for a change of operator?

According to the Petroleum Act, the MPE's consent is required for any change of operator.

Law stated - 01 January 2022

Transfer fees

Are there any specific fees or taxes levied by the government on a transfer or change of control?

There are no specific fees or taxes in relation to a transfer or change of control situation. However, if a mortgage in the

participating interests being transferred is registered in the Norwegian Petroleum Register, a fee amounting to 10 times the standard court fee must be paid. For 2022, the standard court fee is 1,223 Norwegian kroner.

Law stated - 01 January 2022

TITLE TO FACILITIES AND EQUIPMENT

Title holder

Who holds title to facilities and equipment used for oil exploration, development and transportation activities during the term and on termination of a licence, PSC or service contract?

There are no regulatory or statutory requirements determining which entity shall be the owner of facilities and equipment used for oil exploration, development, production and transportation activities. Hence, it may either be owned by the licensees, contractors or other legal entities. Facilities and equipment used for exploration activities (such as drilling rigs and seismic vessels) are, in practice, owned by contractors. Production facilities (such as production platforms and floating production storage and offloading units) are normally owned by the licensees but there are several examples where other legal entities have ownership of production facilities. Oil pipelines are normally owned by a joint venture consisting of the same licensees as in the production licence utilising the capacity in the oil pipeline.

There is no transfer of ownership of facilities entering the country and ownership is only transferred through privately initiated transactions (except for a bankruptcy situation). This is normally also the case after cessation of production or end of the licence period but, in these circumstances, the Norwegian state has a special right to take ownership of permanently placed installations owned by the licensees. Hence, permanently placed installations owned by other parties than the licensees are not affected by this rule. The Norwegian state has never exercised this right and it is unlikely that the option will be used in the near future.

Law stated - 01 January 2022

DECOMMISSIONING AND ABANDONMENT

Laws and regulation

What laws or regulations govern abandonment and decommissioning of oil and gas facilities and pipelines? In summary, what is the obligation and liability regime for decommissioning? Are there any other relevant issues concerning decommissioning?

The main legal framework relating to abandonment and decommissioning of oil and gas facilities and pipelines are the Petroleum Act and the Petroleum Regulation.

The licensees are obliged to submit a decommissioning plan to the Ministry of Petroleum and Energy (MPE) prior to the expiry or surrender of a production licence or a specific licence referring to installation and operation of facilities, or alternatively before the use of a facility is permanently terminated. The plan shall contain proposals for continued production or shutdown of production and the disposal of facilities. The MPE renders a final decision relating to the content of, and the time limit for, implementation of the decommissioning plan. The decision shall, inter alia, be based on technical, safety, environmental and economic aspects, as well as with consideration to other users of the sea.

Licensees forming a joint venture are jointly and severally liable for decommissioning costs. If a licence or a participating interest in a licence has been transferred, the assignor shall be liable for financial obligations towards the remaining licensees for the costs of carrying out the disposal.

In addition to national regulations, the decommissioning plan must take into consideration various requirements

undertaken in international regulations. This particularly relates to the Convention for the Protection of the Marine Environment of the North-East Atlantic 1992 (OSPAR) Decision 98/3 on the Disposal of Disused Offshore Installations, the International Maritime Organization guidelines and the United Nations Convention on the Law of the Sea.

Law stated - 01 January 2022

Security deposits for decommissioning

Are security deposits required in respect of future decommissioning liabilities? If so, how are such deposits calculated and when does their payment become due?

The MPE may request a parental guarantee or other security, but there is no requirement to obtain a security deposit in respect of future decommissioning liabilities. However, if a licence or a participating interest in it has been transferred, the assignor shall (inter partes) be liable for financial obligations towards the assignee and the remaining licensees for the costs of carrying out the decision relating to disposal under the Petroleum Act and the Petroleum Regulation. Frequently, the assignor will request the assignee to provide a parental or bank guarantee in order to obtain adequate certainty with regard to the assignee's (future) financial capability.

Law stated - 01 January 2022

TRANSPORTATION

Regulation

How is transportation of crude oil and crude oil products regulated within the country and across national boundaries? Do different government bodies and authorities regulate pipeline, marine vessel and tanker truck transportation?

Offshore pipeline transportation of crude oil and other petroleum products is governed by the Petroleum Act and is administered by the Ministry of Petroleum and Energy (MPE). Onshore pipeline transportation is governed by the Regulation of 14 November 2003 No. 1342 administered by the MPE and Regulation of 8 June 2009 No. 602 administered by the Directorate for Civil Protection. Norwegian maritime rules, enforced by the Maritime Directorate, apply to transportation of crude oil and crude oil products by marine vessels within Norwegian territorial waters, under the Regulation of 8 December 2009 No. 1481 and the Regulation of 15 December 2009 No. 1543, which are partly based on the International Convention for the Safety of Life at Sea 1974. The rules of the vessel's flag state apply to transportation outside Norwegian territorial waters. Onshore transportation (ie, transportation by tanker trucks and railroads) is governed by the Regulation on Transport of Hazardous Material of 1 April 2009 No. 384 and is enforced by the Directorate for Civil Protection. Such transportation is based on the European Agreement concerning the International Carriage of Dangerous Goods by Road 1957 convention and the international regulations concerning the International Carriage of Dangerous Goods by Rail.

Law stated - 01 January 2022

COST RECOVERY

Determining recoverable costs

Where oil exploration and production activities are conducted under a production sharing contract, describe how recoverable costs can be determined and how recovery can be realised.

Production sharing contracts are not used on the Norwegian continental shelf.

HEALTH, SAFETY AND ENVIRONMENT**Requirements**

What health, safety and environment requirements apply to upstream oil-related facility operations onshore and offshore? What government body is responsible for this regulation; what enforcement authority does it wield? What kind of record-keeping is required? What are the penalties for non-compliance?

The main health, safety and environment (HSE) requirements applicable to subsea and onshore activities that form an integrated part of the offshore petroleum production are set out in the following five regulations:

- the Framework Regulation of 12 February 2010 No. 158, which sets out certain criteria for HSE in petroleum activities (applicable to activities conducted offshore and certain specifically mentioned onshore plants and refineries);
- the Management Regulation of 29 April 2010 No. 611, which sets out requirements on the management of HSE issues, including the development of objectives and strategies to improve HSE (applicable to activities conducted offshore and certain specifically mentioned onshore plants and refineries);
- the Facilities Regulation 29 April 2010 No. 634, which sets out certain criteria when designing offshore facilities used in petroleum activities (applicable to activities conducted offshore);
- the Activities Regulation of 29 April 2010 No. 613, which governs various petroleum activities and sets out requirements pertaining to, inter alia, the working environment, prerequisites for start-up and use of facilities, maintenance of the facility, monitoring of the external environment and handling of waste, and emergency preparedness (applicable to activities conducted offshore); and
- the Technical and Operational Regulation of 29 April 2010 No. 612, which sets out requirements relating to the development and design of onshore facilities, working environment issues, handling of risks and emergency preparedness (applicable to activities conducted at specifically mentioned onshore plants and refineries).

As a general rule, all mobile offshore facilities are subject to obtaining an acknowledgement of compliance before the start-up of activities. This is provided by the Petroleum Safety Authority (PSA) and expresses the authorities' confidence that petroleum activities can be carried out using the facility within the framework of the regulations. An applicant can either be the owner of the facility or a party that will be in charge of the day-to-day activities of the facility.

The PSA is the administrative body responsible for technical and operational safety and the working environment related to offshore and onshore activities covered by the Petroleum Act. This responsibility covers all phases of the relevant activities, including planning and design, construction and operation, and decommissioning including removal. All licensees conducting activities on the Norwegian continental shelf shall have a management system that the PSA finds to be in compliance with the HSE regulations and breach of the applicable regulations may be subject to administrative and criminal sanctions.

Pursuant to the Petroleum Regulations, the licensee shall ensure the safekeeping of materials and documents for as long as it provides necessary information about petroleum activities.

LABOUR

Local and foreign workers

Must a minimum amount of local labour be employed? What are the visa requirements for foreign labour? Are there anti-discrimination requirements? What are the penalties for non-compliance?

The Norwegian Working Environment Act of 17 June 2005 No. 62 (WEA) applies, with a few exceptions, to undertakings that engage employees, including labour within the petroleum industry. Provisions regarding, inter alia, working hours, health and safety issues, entitlement to leave of absence and regulations on termination of employment forms part of the WEA.

Other relevant statutes are the Holiday Act of 29 April 1988 No. 21, the various anti-discrimination acts and the Gender Equality Act of 21 June 2013 No. 59. The Petroleum Act provides additional provisions on safety measures with regard to petroleum activities.

A number of collective agreements (entered into between labour unions and employers, or an employer association) apply to the Norwegian petroleum industry and regulate, inter alia, employees' working hours, working conditions, the stipulation of wages and retirement pensions. Certain provisions from the Engineering Industry Agreement (collective bargaining agreement) have been made applicable in the maritime construction industry. The provisions relate to minimum wage, compensation for overtime, working hours, travel, board, lodging expenses and work clothes.

Nordic citizens may work in Norway without needing to obtain a residence permit. European Union and European Economic Area (EEA) citizens have an unrestricted right to work in Norway. There is, however, a requirement to be registered if the stay in Norway exceeds three months, along with certain conditions (eg, the ability to be self-supported). Other foreign employees require a residence permit for work in Norway.

There are no minimum requirements to use local labour in the petroleum industry and any such requirements would be in violation of the EEA Agreement. However, the Norwegian government and Norwegian-based oil companies promote both education and employment within the petroleum industry, mainly to secure a stable and viable workforce. There is no governmental regulated training fund for the local workforce.

Pursuant to the WEA, all discrimination on the basis of political views, membership of trade unions, part-time employment or age is prohibited. Moreover, discrimination regarding ethnicity, national origin, ancestry, colour, language, religion, belief or gender is prohibited subject to the Ethnicity Anti-Discrimination Act, the Anti-Discrimination and Accessibility Act, the Sexual Orientation Anti-Discrimination Act and the Gender Equality Act.

Employers shall ensure that the WEA provisions are complied with. A proprietor of an undertaking or an employer who wilfully or negligently breaches the provisions pursuant to the WEA are liable to a fine, imprisonment for up to three years, or both.

The Norwegian Labour Inspection Authority supervises compliance with the WEA.

Law stated - 01 January 2022

TAXATION

Tax regimes

What is the tax regime applicable to oil exploration, production, transportation, and marketing and distribution activities? What government body wields tax authority?

Petroleum-related activities on the Norwegian continental shelf (NCS) are governed by the Petroleum Taxation Act. The Act currently levies a special tax of 56 per cent in addition to the ordinary Norwegian corporate tax rate of 22 per cent.

Therefore, the marginal tax rate for activities carried out on the NCS is 78 per cent. All exploration costs may be deducted. For production facilities and pipelines, a linear depreciation rate of 16.66 per cent per year is granted. There is also a special uplift allowance when calculating the special tax.

According to a special provision in the Petroleum Taxation Act, companies that are in a loss position can annually claim a cash reimbursement from the state equivalent to the fiscal value (78 per cent) of exploration costs that the company has carried during the income tax year.

The Norwegian system also allows pledging and selling of such reimbursement claims against the state. For the purpose of determining the taxable income from sales of crude oil, the Petroleum Taxation Act states that a norm price (set by the Petroleum Price Council) may be used, which will ensure a price that would have been agreed upon between independent parties.

Consent from the Ministry of Finance (MoF) is required for any direct transfer of participating interests in a licence and for transfer of shares in a licence holder if such transfer is subject to a corresponding consent by the Ministry of Petroleum and Energy. The MoF approval may contain conditions to secure a neutral tax effect for the transfer of the licence. In short, this means that the seller is not taxed for any capital gains but the buyer will not get any tax deduction for the purchase price. MoF may, however, make adjustments to the tax positions of companies involved in the transfer to ensure tax-neutrality.

The Petroleum Taxation Act also has standardised regulations for licence transfers. According to the standard, defined transactions will be accepted by MoF without a special ruling. One condition is that a description of the licence transfer and its tax consequences is sent to MoF, with a copy to the Petroleum Tax Office.

Other taxes linked to petroleum activities are the CO2 tax and the area fee. The CO2 tax rate for 2022 is 1.65 Norwegian kroner per litre of produced oil or standard cubic metre of gas.

Owing to the covid-19 pandemic, temporary special tax reliefs have been introduced. The right to obtain an immediate deduction of the investment costs and an additional 24 per cent uplift also apply to deduction of costs incurred in acquiring operating assets covered by defined plans for development and operation of fields or plan for installation and operation, provided that an application is filed before 1 January 2023 and approved by the Ministry of Petroleum and Energy before 1 January 2024.

The cash refund rules were expanded with temporary rules in 2020. The temporary rules apply to most projects where the project plan has been forwarded to the MPE by 1 January 2023 and also finally approved by the MPE by 1 January 2024.

In addition, the Norwegian government has in April 2022 proposed to change the current petroleum tax system to a cash-flow based tax for the special tax. This implies that all costs including investments will be deductible in the year they occur, unlike at present through depreciations. The deduction for uplifts and financial costs will be excluded in the special tax. In the corporate tax base, investments shall be depreciated over six years as in the current tax regime.

The cash reimbursement of the loss position is proposed to be abolished. The special tax rate will effectively be increased to 71.80 per cent, as the calculated corporate tax will be deducted from the special tax base. Hence, the companies will not receive the full tax values of their taxable expenses as they are at present. The tax values of the losses in the special tax base will be refunded annually, while any losses in the ordinary corporate tax base must be carried forward.

To strengthen the borrowing opportunities the companies shall be allowed to pledge their refund claim regarding the special tax value losses.

Law stated - 01 January 2022

COMMODITY PRICE CONTROLS

Crude oil mining

Is there a mandatory price-setting regime for crude oil or crude oil products? If so, what are the requirements and penalties for non-compliance?

To calculate the taxable income for oil companies in Norway, the Petroleum Price Council (the Council) sets tax reference prices, also known as norm prices. Determination of norm prices is based on the principle that such price should reflect the price that could have been achieved between independent parties. The procedure for determining norm prices is governed by the Norm Price Regulations. There is no price-setting regime for crude oil products.

The Council arranges meetings with the companies before the final norm price is set, and the companies are given an opportunity to express their view prior to the norm price being determined. Companies may also appeal the Council's decision to the Ministry of Petroleum and Energy. If the Council does not find it reasonable to set norm prices, the actual price achieved will be used as the applicable tax reference price.

Law stated - 01 January 2022

COMPETITION

Competition enforcers

What government bodies have the authority to prevent or punish anticompetitive practices in connection with the extraction, transportation, refining or marketing of crude oil or crude oil products?

The Norwegian Competition Act of 5 March 2004 No. 12 (the Competition Act) is enforced by the Norwegian Competition Authority (NCA), whose decisions may be appealed to a relatively newly established autonomous appeal body, the Competition Complaints Board. A decision by the NCA determining that an action does not violate any competition laws or a decision not to intervene against a merger cannot be appealed. The decisions of the Competition Complaints Board are subject to judicial review directly before the Court of Appeal. The new appeal system entered into force on 1 April 2017.

In addition to enforcing the national competition law, the NCA is also empowered to enforce the competition law provisions of the Agreement on the European Economic Area (EEA Agreement). However, its powers are subordinated to the powers of the European Free Trade Association Surveillance Authority (ESA) and the European Commission (EC). Should ESA or the EC initiate the investigation of an infringement of the competition law provisions of the EEA Agreement, the NCA is prohibited from making decisions conflicting with those of the EC or the ESA.

Law stated - 01 January 2022

Obtaining clearance

What is the process for procuring a government determination that a proposed action does not violate any competition laws? How long does the process generally take? What are the penalties?

Undertakings engaged in economic activity in Norway are responsible for carrying out their own assessment of the compliance of their practices and agreements with competition law. Therefore, there are no notification requirements or other procedures to obtain a determination by the NCA that a proposed action does not violate any competition law. The NCA may initiate investigations of a violation of the Competition Act based on complaints by third parties or ex

officio. There are no formal legal time limits for the NCA's investigations of an infringement of the prohibitions against anticompetitive behaviour. NCA investigations into possible infringements of competition law often amount to a lengthy process and may take years in the most complex of cases.

'Concentrations' between independent undertakings (mergers and acquisitions) above certain turnover thresholds must, on the other hand, be notified and approved by the NCA under the domestic merger control regime or by the EC pursuant to their competence as defined in article 57 of the EEA Agreement.

Such notification to the NCA is required only if:

- the combined aggregate turnover of the undertakings concerned in Norway is more than 1 billion Norwegian kroner; and
- at least two undertakings concerned each have a turnover in Norway exceeding 100 million Norwegian kroner.

An acquisition of assets in a producing field on the Norwegian continental shelf may, under certain circumstances, be considered as a concentration, in which case, insofar as stipulated turnover thresholds are met, it must be notified to the NCA under the domestic merger regime.

The NCA is obliged to adhere to strict deadlines when assessing a proposed concentration. Within 25 working days from receiving a notification, the NCA must either clear the concentration or initiate a phase II investigation. If the NCA decides to initiate a phase II investigation, it must either clear the concentration or issue a statement of objections informing the parties that it is intended to prohibit the merger within 70 working days of receiving the notification. The NCA shall intervene if the concentration will significantly impede effective competition. After receiving the statement of objections, the parties shall be given 15 working days to respond to the NCA's preliminary conclusions. After receiving the comments of the parties, the NCA will have 15 working days to issue a final decision. The NCA merger investigation may therefore last up to 100 working days. However, if the parties have proposed remedial actions, the process can be extended by an additional 15 working days. Furthermore, the process may be extended by another 15 working days upon request by the parties. If the NCA does not comply with the set deadlines, the parties may proceed with the merger.

A company may face sanctions in the form of administrative fines if it fails to notify a concentration to the NCA, or if it infringes the standstill obligation that applies during the period the NCA is assessing a notified merger.

Infringements of the prohibitions in the Competition Act can be sanctioned with administrative fines by the NCA. Serious infringements are considered criminal offences, and Norwegian courts can in addition impose penal sanctions such as imprisonment or fines on individuals.

Law stated - 01 January 2022

DATA

Seismic data

Who holds title to seismic data collected during the term of and on termination of a licence, PSC or service contract? Can the regulator require the data owner to report or release the data?

Seismic data is either acquired for oil companies' exclusive use (proprietary data) or for non-exclusive use (multi-client data).

Proprietary data is normally acquired by the licensees under a production licence and the seismic data is owned by the relevant licensees. The proprietary data may also have been collected under an exploration licence, although this is not often the case.

Multi-client data is normally owned by a seismic company providing the acquisition of the data under an exploration licence and the data is, in turn, licensed for a specific duration to oil companies. If such seismic data is intended to be used within a production licence, all licensees must consequently be part of the lease contract and pay the applicable fee to be able to have access to and utilise the data.

The licensee must, within three months after the specific seismic activity under an exploration licence is completed, send data, registrations and results from the activity to the Norwegian Petroleum Directorate. It is a requirement that seismic data in both raw and processed formats must also be submitted to Diskos, the National Data Repository for petroleum data in Norway.

Data is released and made publicly available after a certain number of years (two, five or 10 years for raw data and processed data and 20 years for interpreted data). During the confidentiality period, the data owner is in control of the data and decides whether to provide access to oil companies by entering into agreements on either sale (proprietary data) or lease (multi-client data) of specific data sets.

Law stated - 01 January 2022

INTERNATIONAL

Treaties

To what extent is regulatory policy or activity affected by international treaties or other multinational agreements?

As a party to the Agreement on the European Economic Area (EEA Agreement), Norway is largely affected by legislation enacted by the European Union (EU) and the European Economic Area (EEA). Hence, statutes and regulations on a national level cannot be inconsistent with the rules of, inter alia, non-discrimination and the 'four freedoms' (ie, free movement of goods, capital, services and persons). Two of the most important directives that further elaborate on the basic rules of the EU and EEA and that have been implemented by Norway are Directive 94/22/EC (the Hydrocarbons Licensing Directive) and Directive 98/30/EC (the Gas Market Directive), the latter being repealed twice (by 2003/55/EC and 2009/73/EC).

The Convention for the Protection of the Maritime Environment of the North-East Atlantic and the United Nations Convention on the Law of the Sea 1982 are important international treaties that are both applicable to petroleum activities under Norwegian law.

Norway is a contracting state to both the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Lugano Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters. Further, Norway is a party to bilateral investment protection treaties entered into with different states regarding mutual promotion and protection of investments. The Agreement on the EEA and the Trade-Related Investment Measures, Trade-Related Aspects of Intellectual Property Rights and General Agreement on Trade in Services' agreements (treaties of the World Trade Organization), to which Norway is a party, are considered bilateral investment treaties. An example of a multilateral treaty ratified by Norway is the cooperation agreement between member states of the European Free Trade Association and the European Investment Bank.

Law stated - 01 January 2022

Foreign ownership

Are there special requirements or limitations on the acquisition of oil-related interests by foreign companies or individuals? Must foreign investors have a local presence?

As a general rule, a production licence may be granted to a body corporate established in conformity with Norwegian legislation and registered in the Norwegian Register of Business Enterprises, insofar as other requirements are not applicable pursuant to international agreements. A production licence may also be granted to a physical person domiciled in a state of the EEA.

Pursuant to the Petroleum Act, a licensee is, as the main rule, obliged to have an organisation based in Norway that is capable of handling its petroleum activities on the Norwegian continental shelf.

If necessary due to national security considerations, the Ministry of Petroleum and Energy may deny access to and the right to conduct petroleum activity if the applicant is de facto under the control of a state outside the EEA or by citizens from such state.

Law stated - 01 January 2022

Cross-border sales

Do special rules apply to cross-border sales or deliveries of crude oil or crude oil products? Are there any volumetric supply obligations for the local market that prevail over the export rights of the oil producer?

Cross-border sales or deliveries of these products are not governed by any specific legal requirements. Licensees are free to export their share of all petroleum produced and have no preferential supply obligations to the Norwegian market. However, in a situation of national energy shortage (eg, energy crisis or war), the authorities may demand that crude oil or crude oil products are delivered to the Norwegian market. In this scenario, the requirement to deliver to the Norwegian market may also be given priority over the export rights of the oil producer. The delivery requirement must in all circumstances comply with Norway's obligations under the EEA Agreement, and we are not aware of any situations where the special right to request delivery to the Norwegian market has been applied by the authorities.

Law stated - 01 January 2022

UPDATE AND TRENDS

Current trends

What are the current trends in your jurisdiction? What can we expect in the near future? Are there current proposals to change the regulatory or statutory frameworks? What areas may be of particular interest to foreign investors?

Strong focus on CO2 capture, transportation and storage on the NCS

A specific regulation related to transportation and storage of CO2 on the Norwegian continental shelf (NCS) came into effect on 5 December 2014, and the Petroleum Regulation Chapter 4a also includes detailed rules applicable to the storage of CO2 on the NCS.

Norway has long experience of utilising carbon capture and storage (CCS) techniques. Since 1996, CO2 from natural gas production on the NCS has been captured and reinjected into sub-seabed formations. The CCS projects on the Sleipner, Gudrun and Snøhvit fields are the only CCS projects currently in operation in Europe and the only projects in the offshore industry.

In addition, the Technology Centre Mongstad (TCM) is the world's largest facility for testing and improving CO2 capture technologies, and is a vital part of the government's work on CCS. TCM has been operating since 2012, providing an arena for targeted development, testing and qualification of CO2 capture technologies on an industrial scale.

The planning of a new full-scale CCS project in Norway has recently reached a new milestone. In 2018, the government decided to fund front-end engineering and design studies of CO₂ capture at two sites in Norway. A solution for full-scale CCS that facilitates the further development of CCS in both Norway and Europe has now been introduced. The project named Longship has for the first phase encompassed carbon capture from Norcem's cement factory in Brevik, while the second potential capture site, Fortum Oslo's Varde district heating facility, may be included at a later stage provided that the company obtains sufficient own funding and funding from the European Union (EU) or other sources.

The Norwegian parliament, on 14 December 2020, approved the use of significant state aid necessary to enable this path-breaking project to be executed, and the government has laid out its plans for Longship in a White Paper, which was debated and adopted by parliament on 21 January 2021. The overall investment and running costs for the project is estimated to be approximately 25 billion kroner, of which the Norwegian state will contribute approximately 17 billion kroner. Northern Lights, which is a collaboration between Equinor, Shell and Total, has been responsible for the CO₂ transport and storage part of the Longship project. This part of the project comprises ships for transport of liquid CO₂, a reception terminal in Øygarden municipality, and a pipeline to an offshore well where CO₂ will be injected into a storage formation 2,600 metres under the seabed. The Ministry of Petroleum and Energy (MPE) approved the development plan for Northern Lights in March 2021, and the partners are now proceeding with the extensive construction period of the transport and storage facilities related to this important full-scale CCS project.

On 5 April 2022, the MPE announced that the companies Equinor ASA, Vår Energi AS and Horisont Energy AS were awarded exploration licences to store CO₂ in specific areas on the Norwegian continental shelf. This is the second time that acreage has been awarded for CO₂ storage pursuant to CO₂ Storage Regulations. The first awards were through the Longship project in 2019, and the joint venture is now well under way with its work to develop infrastructure for the storage part of Longship. The MPE emphasised that this award shows that CO₂ storage is relevant for traditional energy companies as well as new players in an offshore activity that requires different business models than traditional oil and gas projects.

Petroleum activities in the ice edge zone (Barents Sea)

The Norwegian state has undertaken not to permit petroleum activities in the 'ice edge zone' in the Barents Sea.

Until now, the ice edge zone has been defined as the area where the average period of ocean ice during April is 30 per cent, but the government presented a new definition on 24 April 2020 where the borderline is set to the area where the average period of ice during April is only 15 per cent. It is expected that parliament will approve the proposal later this spring. It is clearly very important for the Norwegian petroleum industry that none of the production licences awarded in the 23rd licensing round (south-east Barents Sea) crossing the proposed borderline of the new 'ice edge'. Petroleum activities are, therefore, likely to still be permitted in these production licences, which is an issue closely linked to the high-profile claim from environmental groups against the Norwegian state.

Environmental lawsuit related to the award of production licences in the 23rd licensing round

On 22 December 2020, the Norwegian Supreme Court set by all judges (plenary) gave its judgment in the much-anticipated climate lawsuit against the Norwegian state, where the specific risk at stake was that the award of production licences in the 23rd licensing round could be declared invalid (null and void). The case was heard between the state, represented by the Ministry of Petroleum and Energy, and Greenpeace Nordic, Nature Youth Norway and other environmental organisations. The Supreme Court found that the granting of production licences in the 23rd licensing round was valid.

The main legal question discussed was whether article 112 of the Norwegian Constitution, and especially its first paragraph, gives material rights to private persons, and if so, what the contents of this right is. The provision states (unofficial translation):

Every person has the right to an environment that is conducive to health and to a natural environment whose productivity and diversity are maintained. Natural resources shall be managed on the basis of comprehensive long-term considerations which will safeguard this right for future generations as well.

In order to safeguard their right in accordance with the foregoing paragraph, citizens are entitled to information on the state of the natural environment and on the effects of any encroachment on nature that is planned or carried out.

The authorities of the state shall take measures for the implementation of these principles.

The Supreme Court conducted a thorough interpretation of article 112. In the majority's view, the wording did not provide a clear answer to the question of whether this provision gives material rights to individuals. However, the former article 110 b, which was replaced by article 112, and the preparatory works indicated that the main element of article 112 was parliament's duty to implement adequate and necessary measures to combat and mitigate climate change. Article 112 may, however, provide rights for individuals to be tried before the courts when it comes to environmental issues not discussed and governed by applicable legislation. The Supreme Court also stated that if parliament has not been involved in an administrative decision, article 112 may serve as a relevant factor for the interpretation to be conducted.

Where parliament has been involved, and implemented measures through legislation, among other things, the Supreme Court found that article 112 will function as a 'legal safety net'. The majority found that a precondition for the courts to set aside a legislative decision must be that parliament had grossly set aside its obligations pursuant to article 112. The threshold is consequently very high.

The Supreme Court did not find that the threshold was reached when parliament decided to open the Barents Sea South East for petroleum activities, and added that the award of production licences in the 23rd licensing round was directly interlinked to the previous decision by parliament to open the applicable areas for petroleum activities. Several measures had been implemented to combat the effects of emissions, inter alia, duties on CO2 emissions, the EU's quota system, measures relating to carbon capture and storage. In conclusion, the majority found that parliament had clearly not grossly set aside its duties under article 112.

Other legal issues were also included in the scope of the case. Most notable was the question of whether the 23rd licensing round infringed the right to life under article 2 of the European Convention on Human Rights (ECHR) and article 93 of the Norwegian Constitution or the right to respect for private and family life, under article 8 of the ECHR and article 102 of the Norwegian Constitution. A unanimous court found that these rights were not breached.

Lastly, the Supreme Court thoroughly discussed whether the decision from 2013 to open the Barents Sea South-East area for petroleum activities was suffering from procedural errors, leading to the subsequent administrative decision to award licences being declared invalid (null and void).

The majority did not find that the opening of the Barents Sea South East in 2013 was in breach of article 112 of the Norwegian Constitution or other Norwegian or international legal sources, and the award of production licences in the 23rd licensing round was therefore declared valid.

The relevant part of Supreme Court's judgment applicable to the ECHR has been brought before the Court of Justice of the European Union, and it therefore still remains to be seen whether the final chapter has been reached in this climate lawsuit. In any case, we will assume that the Norwegian authorities will ensure that adequate environmental impact assessments will be provided if new areas are opened for petroleum activities in the future and for all upcoming awards of production licences on the NCS.

Digitalisation contributing to increased cost-cutting

After the significant drop in oil prices in 2014, various cost-cutting measures have been implemented to ensure that it is still profitable to conduct petroleum activities on the NCS. The Norwegian oil and gas industry has a good track record in implementing new technology. A recent trend contributing to lower costs is an operator-driven digitalisation initiative with more data sharing, information sharing through digital cloud-based solutions replicating real-life scenarios with virtual 3D simulations of operations, data analytics for condition-based maintenance of equipment and artificial intelligence involving machine learning to better understand and interpret data for more effective decision making. One of the projects on the NCS benefitting from this digitalisation trend is the major Johan Sverdrup field development. The operator Equinor has developed digital twins of the field's four platforms, providing a unique overview of all parts of the platforms and enabling more realistic surveillance and training, which in turn contributes to more efficient and safe operations.

The Norwegian industry's increased focus on digitalisation in all phases of petroleum activities is expected to be one of the most important factors contributing to the NCS strengthening its competitiveness in the years to come.

Law stated - 01 January 2022

Jurisdictions

	Argentina	Martelli Abogados
	Brazil	Campos Mello Advogados
	Denmark	Bech-Bruun
	Ecuador	Robalino
	Egypt	Soliman, Hashish & Partners
	Faroe Islands	Bech-Bruun
	Ghana	Kimathi & Partners Corporate Attorneys
	Greenland	Bech-Bruun
	Iraq	DWF LLP
	Italy	CMS Italy
	Japan	TMI Associates
	Nigeria	ENR Advisory
	Norway	Kvale Advokatfirma
	Oman	Al Busaidy Mansoor Jamal & Co
	Peru	CMS Peru
	Thailand	Chandler MHM Limited
	United Arab Emirates	Devine & Severova FZ LLC
	United Kingdom	Mayer Brown