



Treaty Series No. 9 (2003)

Framework Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Kingdom of Norway relating to

the Laying, Operation and Jurisdiction of Inter-Connecting Submarine Pipelines

Stavanger, 25 August 1998

[The Agreement entered into force on 17 June 2000]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
March 2003*

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FRAMEWORK AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF NORWAY RELATING TO THE LAYING, OPERATION AND JURISDICTION OF INTER-CONNECTING SUBMARINE PIPELINES

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

Having regard to the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter, signed at The Hague on 17 December 1991, and, in particular, to the declaration therein that the signatories will take action *inter alia* in the field of promoting the development of an inter-connection of energy transport infrastructure;

Mindful of the High Seas Convention of 1958¹, the Continental Shelf Convention of 1958² and the United Nations Convention on the Law of the Sea of 1982³;

Recalling that Articles 58, 79, 86 and 87 of the United Nations Convention on the Law of the Sea of 1982 define the legal regime of submarine pipelines in the context of that Convention as a whole, and that Article 79 of that Convention is at the core of the existing regime covering pipelines on the continental shelf;

Reaffirming that matters not regulated by the United Nations Convention on the Law of the Sea of 1982 continue to be governed by the rules and principles of general international law;

Mindful further that particular pipelines may be subject to special agreements, which may or may not make provisions identical with international law;

Wishing to conclude practical arrangements to promote the laying and operation of and for jurisdiction over inter-connecting pipelines;

Have agreed as follows:

ARTICLE 1

Scope of Application

This Agreement shall apply to the laying and operation of inter-connecting pipelines.

ARTICLE 2

General Provisions

1. Subject to the requirements of this Agreement, neither Government shall prevent or impede the laying and operation of inter-connecting pipelines nor the transport through such pipelines of petroleum produced from the continental shelf appertaining to the other State party to this Agreement.

2. Nothing in this Agreement shall be interpreted as affecting the sovereign rights and the jurisdiction which each State has under international law over the continental shelf which appertains to it. Nor shall anything in this Agreement be interpreted as prejudicing or restricting the application of the laws of either State or the exercise of jurisdiction by their Courts, in conformity with international law.

¹ Treaty Series No. 5 (1963), Cmnd 1929.

² Treaty Series No. 39 (1964), Cmnd 2422.

³ Miscellaneous Series No. 11 (1983), Cmnd 8941.

ARTICLE 3

Definitions

1. For the purpose of this Agreement, unless the context otherwise requires, the following expressions shall have the meaning given to them below and the definitions in the singular shall also include the plural and *vice versa*:
 - (a) “petroleum” means all liquid and gaseous hydrocarbons existing in their natural state in the subsoil, as well as other substances produced in association with such hydrocarbons;
 - (b) “infrastructure” means artificial islands, installations, structures or submarine pipelines on the continental shelf and under the jurisdiction of one of the State parties to this Agreement;
 - (c) “inter-connecting pipelines” mean submarine pipelines on the continental shelf crossing the dividing line between that part of the continental shelf which appertains to the United Kingdom and that part which appertains to the Kingdom of Norway and linking infrastructure on one side under the jurisdiction of one of the Governments to infrastructure on the other side under the jurisdiction of the other Government. An inter-connecting pipeline starts at the inlet flange of that pipeline connected to infrastructure on the one side and ends at an outlet flange of that pipeline connected to infrastructure on the other side;
 - (d) “laying and operation” of an inter-connecting pipeline includes design, fabrication, laying, maintenance, and repair of such a pipeline.
2. The headings to the Articles shall not be used to establish the scope or meaning of all or any part of the text of this Agreement and shall have no legal effect.

ARTICLE 4

Licences, Authorisations, Approvals and Consents

1. The laying and operation of an inter-connecting pipeline may only be initiated in accordance with the licences, authorisations, approvals or consents (hereinafter referred to as “authorisations”) referred to in paragraphs (2) and (3) of this Article. The two Governments shall seek to agree on the terms and conditions of such authorisations prior to their being granted. Subject to this Agreement, such authorisations shall be granted subject to normal legal procedures and requirements. The two Governments shall additionally ensure that the terms of any agreement that either of them has requested pursuant to paragraph (6) of this Article do not conflict with this Agreement or impede by any means, nor impose any requirements which have the practical effect of hampering, the transport of petroleum through an inter-connecting pipeline.
2. In cases where an inter-connecting pipeline at the time of its construction and laying has its inlet flange connected to infrastructure placed on the Norwegian Continental Shelf, authorisations shall, subject to paragraph (1) of this Article, be granted by the two Governments in the following manner:
 - (a) The Norwegian Government grants the required authorisations for an inter-connecting pipeline from its inlet flange connected to infrastructure under the jurisdiction of the Kingdom of Norway to its outlet flange connected to infrastructure under the jurisdiction of the United Kingdom.
 - (b) The United Kingdom Government grants the required authorisations for an inter-connecting pipeline from the delimitation line defined in the Agreement of 10 March 1965¹ between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway relating to the Delimitation of the Continental Shelf between the two Countries, to the outlet flange of the inter-connecting pipeline connected to infrastructure under the jurisdiction of the United Kingdom.

¹ Treaty Series No. 71 (1965), Cmnd 2757.

3. In cases where an inter-connecting pipeline at the time of its construction and laying has its inlet connected to infrastructure placed on the United Kingdom Continental Shelf, authorisations shall, subject to paragraph (1) of this Article, be granted by the two Governments in the following manner:

(a) The United Kingdom Government grants the required authorisations for an inter-connecting pipeline from its inlet flange connected to infrastructure under the jurisdiction of the United Kingdom to the delimitation line defined in the Agreement of 10 March 1965 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway relating to the Delimitation of the Continental Shelf between the two Countries.

(b) The Norwegian Government grants the required authorisations for an inter-connecting pipeline from the delimitation line defined in the Agreement of 10 March 1965 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway relating to the Delimitation of the Continental Shelf between the two Countries, to the outlet flange of the inter-connecting pipeline connected to infrastructure under the jurisdiction of the Kingdom of Norway.

4. The competent authorities of each of the two Governments shall, in accordance with and subject to their national laws, grant any necessary additional authorisations for the laying and operation of an inter-connecting pipeline.

5. The delineation of the course for the laying of an inter-connecting pipeline shall be subject to the consent of both Governments.

6. The two Governments shall ensure that the owner of an inter-connecting pipeline establishes arrangements to regulate the use of the pipeline in accordance with this Agreement. Either Government may request a copy of any agreement entered into pursuant to this paragraph.

7. Copies of any authorisations granted by one Government and referred to in this Article shall be made available to the other Government.

8. A Government shall not substantially alter or modify an authorisation relating to an inter-connecting pipeline, nor consent to any assignment of such an authorisation without prior consultation with the other Government.

9. After an authorisation referred to in paragraph (1) above has been granted, the two Governments shall not grant any authorisation or substantially modify an authorisation so as to prevent there being unified ownership or operating arrangements for an inter-connecting pipeline or, subject to the requirements of this Agreement, so as to prevent or impede the transport of petroleum through an inter-connecting pipeline.

10. If the two Governments are unable to agree on the terms and conditions of an authorisation relating to an inter-connecting pipeline, either Government shall have the right to submit to arbitration in accordance with Article 17 the question of whether or not either Government has met its procedural obligations under this Article.

ARTICLE 5

Operator

The two Governments shall ensure that the owner of an inter-connecting pipeline appoints an operator for the laying and operation of the pipeline. Such appointment and any change of operator shall be subject to the approval of the two Governments.

ARTICLE 6

Priority and Third Party Access

1. The two Governments shall encourage the optimal use of inter-connecting pipelines.
2. The two Governments shall take measures to ensure that the owner of an inter-connecting pipeline includes in any agreement required under Article 4 paragraph (6), provisions regarding priorities in the pipeline for the transport of petroleum deriving from different sources, while ensuring that royalty taken in kind is given the same priority of transport as the petroleum from the field from which the royalty is taken in kind.
3. In furtherance of the aims set out in paragraph (1) of this Article, each Government shall take measures as may be available to it to assist persons wishing to connect a pipeline with or otherwise obtain access to an inter-connecting pipeline to make use of any spare capacity, provided that any such connection or access shall not prejudice the efficient operation of the inter-connecting pipeline for the transport of petroleum owned by the owner of the pipeline.
4. Where a person (hereinafter referred to as “the applicant”) desires to use spare capacity in an inter-connecting pipeline, but is unable to agree fair commercial terms for the transport of his petroleum with the owner of the pipeline, the applicant may apply for connection or access to:
 - (a) the Norwegian Government, in a case where it is proposed that the point of entry of the petroleum into the inter-connecting pipeline should be on the Norwegian Continental Shelf; or
 - (b) the United Kingdom Government, in a case where it is proposed that the point of entry of the petroleum into the inter-connecting pipeline should be on the United Kingdom Continental Shelf.
5. When an application is made according to paragraph (4) of this Article, the Government to which the application is made shall consult the other Government with a view to agreeing a mutually acceptable response to such an application. The two Governments shall, subject to paragraph (2) of this Article, apply the principles of non-discrimination and fairness for all parties concerned and address fully and take proper account of:
 - (a) the spare capacity available, allowing for the owner’s existing contractual obligations and usage which the owner may reasonably be expected to require;
 - (b) the technical compatibility of petroleum proposed for transport through the inter-connecting pipeline with the petroleum contracted for transport therein;
 - (c) relevant economic factors including costs relevant to the contract proposed, comparable tariffs and other conditions applied to the use of the inter-connecting pipeline;
 - (d) the need not to endanger security of supply or prejudice safety and environmental measures;
 - (e) the technical capability and financial viability of the applicant;
 - (f) other relevant matters raised by either Government.
6. If, after such a consultation, the Government to which the application is made is satisfied that capacity in the inter-connecting pipeline has been unreasonably refused or that fair commercial terms have not been offered to the applicant, that Government shall take reasonable account of the outcome of the consultation and require the owner to convey the applicant’s petroleum subject to such terms and conditions as it may specify. Following the consultation provided for in paragraph (5) of this Article, and at least 21 days before conveying its decision to the applicant, that Government shall communicate to the other Government the response it intends to make to the applicant. On application by the applicant the other Government shall also take any measures which are necessary to give effect to the agreed response to the application.

7. If the two Governments are unable to agree a mutually acceptable response to an application, either Government shall have the right to submit to arbitration in accordance with Article 17 the question of whether or not the other Government has met its obligations under this Article.

ARTICLE 7

Environmental Protection

The two Governments undertake to make every endeavour, jointly and severally, after consultations, to ensure that the laying and operation of any inter-connecting pipeline shall not cause pollution of the marine environment or damage by pollution to the coastline, shore facilities or amenities, or vessels or fishing gear of any country. The competent authorities of the two Governments shall develop procedures for the implementation of this Article in an emergency.

ARTICLE 8

Safety

The two Governments shall consult one another with a view to agreeing common construction and safety standards for an inter-connecting pipeline and shall require the owner of the pipeline to comply with those standards.

ARTICLE 9

Security

Nothing in this Agreement shall prejudice the exercise by each Government (or by the two Governments jointly) of special powers in the case of national or international emergency. Consultations shall be held at the earliest opportunity in order that the two Governments may agree on appropriate joint measures to reconcile the urgency of the situation with their common interest in the most effective use of an inter-connecting pipeline.

ARTICLE 10

Telecommunication

The establishment, operation and control of equipment for radio communications relating to an inter-connecting pipeline, shall be subject to agreement between the competent authorities of the two Governments. Other communications systems relating to inter-connecting pipelines shall, as far as possible, be subject to common standards of design. Where it is not possible to impose common standards, the standards imposed by each Government shall be compatible.

ARTICLE 11

Exchange of Information and Confidentiality

1. Where an owner of an inter-connecting pipeline has supplied information to its Government, subject to lawful restrictions as to disclosure and use, that Government may, to the extent that this does not conflict with those restrictions, disclose such information to the other Government. The Government receiving such information from the other Government shall treat the information as confidential and shall not further disclose or use it inconsistently with such restrictions. However, each Government may at any time make use of the information for the purpose of preparing general reports on the activities in respect of the use of such pipelines.

2. Copies of all general reports or statements with regard to an inter-connecting pipeline (including press releases) published by one Government shall be transmitted to the other Government not later than the date of publication.

ARTICLE 12

Tax

Profits arising from the use of inter-connecting pipelines, capital represented by such pipelines and capital gains arising from the disposal of such pipelines or an interest therein shall be taxed in accordance with the laws of the United Kingdom and the Kingdom of Norway respectively, including the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital signed at Oslo on 3 October 1985¹ and any Protocol or Protocols to that Convention or any Convention replacing that Convention as may be signed in the future.

ARTICLE 13

Metering System

1. The two Governments shall require the owner of an inter-connecting pipeline to ensure that the quality and quantity of petroleum entering or leaving the pipeline are metered and that the metering system employed for that purpose is compatible with the metering system of the infrastructure and is properly installed and maintained.
2. Where both Governments have a legitimate interest in the system for determining the quantities of petroleum being admitted into an inter-connecting pipeline, such system shall be the subject of agreement between the competent authorities of the two Governments.
3. The competent authorities of the two Governments shall agree on regular calibration of the metering system and consult with each other to review the implementation of this Article.

ARTICLE 14

Inspection

1. The competent authorities of the two Governments shall each appoint persons to be inspectors for the purpose of assisting their respective Governments in securing compliance with the standards for the safe and proper laying and operation of an inter-connecting pipeline.
2. The inspectors of each Government shall act in co-operation and consult with the inspectors of the other Government with a view to achieving compliance with the safety and construction standards applicable to inter-connecting pipelines.
3. The two Governments shall take such steps as are available to them to secure for inspectors appointed by the competent authority of the other, access to the relevant part of an inter-connecting pipeline and the infrastructure to ensure the production of relevant information to enable those inspectors to satisfy themselves that the fundamental interests of their Government with regard to safety, petroleum production and metering are met.
4. If it appears to an inspector of either Government to be necessary or expedient for the purpose of averting a casualty or other accident involving loss of life or danger to life suffered by a person, whether the danger is immediate or not, or minimising the consequences of such a casualty or other accident, and time and circumstances do not permit consultation between the inspectors of the two Governments, that inspector may order the immediate cessation of any or all operations in relation to an inter-connecting

¹ Treaty Series No. 13 (1986), Cmnd 9730.

pipeline, provided the fact of such an order and the reason therefore is reported immediately to the competent authorities of both Governments who shall then consult to consider the action necessary for the safe and speedy resumption of operations.

5. The competent authorities of the two Governments shall consult with each other to agree on methods to implement this Article.

ARTICLE 15

Continued Use

1. In the event of the expiration, surrender or revocation of any authorisation referred to in Article 4 paragraph (1), the Government having granted the authorisation shall ensure that if the two Governments are agreed that there is need for the continued use and operation of the pipeline, such use and operation is continued in accordance with the terms of this Agreement and the agreements referred to in Article 4 paragraph (6), subsisting immediately before such expiration, surrender or revocation. In particular that Government shall take one of the following steps:

- (a) grant a new authorisation in replacement of the authorisation which has expired, been surrendered or revoked; or
- (b) itself conduct such use and operation; or
- (c) take such other action to continue such use and operation as the two Governments may agree.

2. The two Governments shall ensure that the agreements referred to in Article 4 paragraph (6) shall be the subject of such supplementary agreements as are necessary consequent upon the action taken.

3. If one Government considers the continued operation of an inter-connecting pipeline or part thereof for technical, economic or other reasons not to be practicable, it shall offer the other Government the opportunity, in consultation with the owner of the pipeline, to take steps to ensure the continued operation on fair terms and conditions of the pipeline or part thereof. Subject to safety and environmental considerations, one Government shall not prevent the other Government from securing the continued operation of the pipeline or part thereof on such terms and conditions.

4. Subject to paragraph (3) of this Article, if the other Government takes over the operation of an inter-connecting pipeline or part thereof, it shall ensure the removal or isolation of any part of the pipeline which is no longer in use and which both Governments agree should be removed or isolated.

ARTICLE 16

Abandonment

1. If the two Governments are in agreement that the continued operation of an inter-connecting pipeline or part thereof for technical, economic or other reasons is not practicable, they shall require the owner of the pipeline to submit to them a plan (hereinafter referred to as "the plan") setting out the measures to be taken in connection with the abandonment of the pipeline or part thereof.

2. The two Governments shall agree the measures to be taken in connection with the abandonment of an inter-connecting pipeline or part thereof.

3. Without prejudice to the generality of paragraph (1) of this Article, the plan shall include:

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

4. In considering abandonment of an inter-connecting pipeline or part thereof, the two Governments shall address fully and take proper account of:

- (a) best available cost-effective techniques;
- (b) economic factors;
- (c) applicable international standards or guidelines;
- (d) safety hazards associated with abandonment, including where relevant, transport and disposal;
- (e) safety of navigation;
- (f) the environmental impact of the measures proposed in the plan;
- (g) the impact of the measures proposed on other uses of the sea;
- (h) the time table for abandonment;
- (i) the financial implications and other consequences to either Government of the measures proposed in the plan;
- (j) other relevant matters raised by either Government.

5. The two Governments may approve the plan with or without modifications and either subject to conditions or unconditionally. Before approving the plan with modifications or subject to conditions, the two Governments shall give the owner who submitted the plan an opportunity to make representations about the proposed modifications or conditions.

6. The two Governments shall act without unreasonable delay in reaching a decision as to whether to approve or reject the plan and, if approved, require its implementation.

7. If the plan is rejected, the Governments shall inform the owner of the reasons for doing so. The owner shall in such circumstances be required to submit a revised plan within a specific time limit acceptable to both Governments.

8. If the two Governments are unable to agree a mutually acceptable response to a plan, either Government shall have the right to submit to arbitration in accordance with Article 17 the question of whether or not either Government has met its obligations under this Article.

ARTICLE 17

Arbitration

1. Any dispute about the interpretation or application of this Agreement, or any other matter referred to the Governments for settlement under the agreements between the owner of an inter-connecting pipeline and between such owner and the owner of an infrastructure, shall be resolved by negotiation between the two Governments.

2. If any dispute cannot be resolved in this manner or by any other procedure agreed to by the two Governments, the dispute shall be submitted, at the request of either Government, to an Arbitral Tribunal composed as follows:

Each Government shall designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman and who shall not be a national of or habitually reside in the United Kingdom or in the Kingdom of Norway. If either Government fails to designate an arbitrator within three months of a request to do so, either Government may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within one month of the designation or appointment of the second arbitrator, the third arbitrator has not been elected. The Tribunal shall determine its own procedure, save that all decisions shall be taken, in the absence of unanimity, by a majority vote of the members of the Tribunal. The decisions of the Tribunal shall be binding upon the two Governments and shall, for the purpose of this Agreement, be regarded as agreements between the two Governments.

ARTICLE 18

Amendments and Termination

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

ARTICLE 19

Entry into Force

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

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

Done in duplicate at Stavanger this 25th day of August 1998 in the English and Norwegian languages, both texts being equally authoritative.

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

For the Government of the Kingdom of
Norway:

JOHN BATTLE

MARIT ARNSTAD



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