

**JOINT UK - NORWEGIAN MINISTERIAL STATEMENT ON A NEW
FRAMEWORK AGREEMENT
AND RELATED ISSUES**

Commitment by the UK and Norwegian Governments to principles that will underlie the future co-operation between the two States and the key principles that will be incorporated in the New Framework Treaty

CHAPTER I

INTRODUCTION

This paper forms part of the joint Ministerial Statement made by Einar Steensnaes and Stephen Timms and establishes, in more detail, a basis for future cross-boundary co-operation between the two States and the principles to be enshrined in the New Framework Agreement.

Reference is made to the initiative taken by Energy Ministers at the end of 2001 and the Pilot-Konkraft recommendations made in August 2002 in their report ‘Unlocking Value Through Closer Relationships’ to strengthen cross-boundary co-operation between Norway and the UK in oil and gas development across the Continental Shelves of both States. The purpose of this co-operation is to achieve optimal exploitation of the hydrocarbon resources and more efficient development and use of infrastructure in the North Sea.

There are already examples of such co-operation: (i) in a proposal for a new landing pipeline, ‘Britpipe’, to deliver 20bcm/a of Norwegian dry gas direct to the UK at Easington; (ii) in ongoing technical discussions between UK infrastructure owners and Statoil and Gassco in looking at optimum solutions for a dry gas link, for example, from Sleipner to UK infrastructure in the time frame to 2008/9; and (iii) in a deal between companies - Shell and ExxonMobil and Statoil – delivering rich gas (also termed “wet gas”) to the UK as part of the redevelopment phase of the Statfjord field and making use of existing UK facilities.

Mindful of the discussions between commercial parties for a dry gas link between UK and Norwegian infrastructure and based upon their current understanding of the volumes of Norwegian gas that might be available for the UK market, the two Governments anticipate that the pipeline capacity necessary to land these volumes in the UK will be available in existing UK offshore infrastructure. Such volumes would be in excess of the Ormen Lange field volumes currently anticipated to be transported in the new ‘Britpipe’ and those

also currently planned to be transported in the existing Norwegian Vesterled pipeline.

The two Governments will seek to facilitate the use of existing infrastructure capacity on fair, transparent and non-discriminatory terms including, where appropriate, the installation of connection points during the construction of new pipelines to facilitate the process for subsequent tie-ins. In the context of future use of UK capacity, should the two Governments receive a proposal for the construction and operation of a further pipeline to land Norwegian gas directly in the UK in circumstances where adequate spare capacity is available in UK offshore infrastructure, the two Governments will seek to satisfy themselves that the process for selecting the transportation solution has been open and transparent and that the best economic solution has been selected. It is envisaged that consideration of the need for and selection of capacity should follow broadly the Work Process set out in Annex A.

I.A New Framework Agreement

One of the key recommendations of the Pilot-Konkraft report was the establishment of a New Framework Agreement which inter alia would set out the respective Governmental regulatory responsibilities for a range of oil and gas cross-boundary projects. It was envisaged that such projects would include the joint exploitation of transboundary reservoirs (median line field development and associated pipelines), development of reservoirs on one side of the delimitation line using infrastructure on the other side (host facility development) and the laying and operation of pipelines across the delimitation line which are not covered by the 1998 Framework Agreement or other oil and gas treaties existing between the two States.

The overall objective of having a New Framework Agreement is to create more predictability with regard to the two Governments' involvement in cross-boundary projects and thus facilitate the planning and execution of such projects. In the past, treaties have often differed in their treatment of jurisdictional and regulatory responsibilities for pipelines. Each cross-boundary project has been the subject of separate, lengthy treaty negotiations between the two Governments. This may have had an inhibiting effect on bringing forward marginal projects.

Solutions have been sought which safeguard the interests of both industry and the two Governments and which accord with applicable EU law and with the principles of fair, transparent and non-discriminatory treatment, avoiding any abuse of a dominant position and other anti-competitive behaviour.

Devising a mechanism, within which both Governments could operate, for the intermeshing of essentially two quite different gas transportation systems – Norway’s mainly regulated system introduced on 1 January 2003 and the UK’s negotiated access regime – has been particularly challenging. This has required innovative solutions to ensure balanced opportunities for both States and their industries.

Nothing in the New Framework Agreement shall be interpreted as affecting the sovereign rights and jurisdiction which each State has under international law over the continental shelf which appertains to it.

Both Governments recognise that there may be merit in applying the regime for managing access, including tariffs, to a Cross-Boundary Pipeline on one continental shelf, such as ‘Britpipe’, to that same pipeline on the continental shelf of the other State but not in that coastal State’s territorial waters. Such application shall be by agreement between the two States and on a case-by-case basis.

Such agreement shall not affect the application by the receiving coastal State of its own health, safety, environmental and other requirements for that pipeline. There will be the fullest consultation between the two Governments to ensure, wherever possible, the compatibility of any overlapping requirements and standards. In any event, common standards and requirements should be adopted by both Governments whenever possible.

I.B Status of 1998 Framework Agreement and other existing Oil and Gas Treaties

Offshore interconnecting oil and gas cross-boundary pipelines are generally covered by the 1998 Framework Agreement i.e. offshore pipelines linking infrastructures on the UK continental shelf under UK jurisdiction with infrastructures on the Norwegian continental shelf under Norwegian jurisdiction, as well as tie-ins into those offshore interconnecting pipelines. However the regulation, authorisation, safety standards etc. of installations themselves, including host installations and any facilities associated with satellite fields, will be covered in the New Framework Agreement.

The two Governments will give further thought as to whether, in the light of the New Framework Agreement, the provisions of the 1998 Framework Agreement continue to be appropriate and whether it should remain a free standing vehicle.

The other oil and gas treaties between the two States shall remain in force.

CHAPTER 2

GENERAL PRINCIPLES IN THE NEW FRAMEWORK AGREEMENT

2.A Jurisdiction

All installations, including processing facilities, well heads and associated development structures on the continental shelf appertaining to the UK are under UK jurisdiction and all installations, including processing facilities, well heads and associated development structures on the continental shelf appertaining to Norway are under Norwegian jurisdiction. The term 'the relevant Government' is the Government exercising jurisdiction over such installations.

The term "installation" does not include pipelines.

2.B Health, Safety and Environmental Standards

The health, safety and environmental standards and/or requirements of the Government issuing the licences, approvals and authorisations relating to cross-boundary projects shall be met.

To facilitate the execution of cross-boundary projects, the two Governments shall encourage, where possible, the adoption of common health, safety and environmental standards and requirements. In any event, standards and requirements should be compatible. There shall be full consultation between the two Governments to this end.

It is recognised that the Government with responsibility for the host infrastructure may have an interest in health, safety and environmental issues in respect of the reservoir and any associated facilities on the other side of the delimitation line. Appropriate procedures will need to be put in place to safeguard the interests of each Government.

2.C Inspection

There shall be provisions on consultation, access and procedures at all stages of a cross-boundary project for visiting inspectors to safeguard the interests of each Government.

2.D Metering Systems

Both Governments shall approve any metering system which is related to a cross-boundary project and which is of common interest. Procedures shall be established for early approval of such a system.

When adopting standards, particular regard shall be given to the economic impact of such standards on the development of the cross-boundary project in question. The adoption of such standards should not unfairly or unduly burden the economic development of that project. In the case of host facility development, due regard should be given to the prevailing standards on the host infrastructure. Due consideration shall also be given as to whether new metering systems are appropriate in the light of metering arrangements already in place elsewhere on installations or pipelines on either continental shelf or in the territory of either State.

Arrangements shall be put in place for the regulatory authorities of either Government to have access to relevant metering systems on either side of the delimitation line to ensure that their interests are safeguarded.

2.E Decommissioning

Decommissioning plans are subject to the approval of the Government on whose continental shelf or in whose territorial waters the installation is situated and after full consultation with the other Government. The aim of both Governments will be to seek to reach agreement on decommissioning methods and standards and both Governments shall approve the timing of any such decommissioning.

2.F Taxation

Taxation will be in accordance with provisions of the Double Taxation Convention and any subsequent revision between the two States.

2.G Exchange of Information

Subject to lawful restrictions as to disclosure and use, both Governments will ensure the proper exchange of information between them relating to cross-boundary projects.

Recognising that the UK and Norwegian offshore pipeline and production systems will increasingly become interlinked, there is a need for increased information flows about upstream operations which affect downstream operations, and *vice versa*, and for information sharing - in particular between

the Governments, other regulatory authorities and the relevant system operators. The two Governments recognise that such considerations apply also to existing pipeline connections between the two States.

Where one Government, in order to ensure safe, effective and stable operations of the systems, places obligations on its field, pipeline, terminal or system operators to provide information about forecast or actual production from or through their facilities, or seeks to establish voluntary arrangements for the provision of that information, the other Government will not put obstacles in the way of the provision of such information by those field, pipeline, terminal or system operators about production crossing the delimitation line and being landed in the territory of the other Government. Both Governments will encourage the fullest exchange of information to meet these requirements.

2.H Approval Procedures

Both Governments will co-ordinate their relevant approval procedures to facilitate the execution of cross-boundary projects.

2.I Expert Procedures

Procedures should be agreed for appointing an expert to determine technical disputes between the two Governments, including the determination and redetermination of reserves and/or their apportionment or reapportionment in a transboundary reservoir. The decision of the expert will be binding on the two Governments.

2.J Framework Forum

The two Governments will establish a Framework Forum to facilitate the implementation of the New Framework Agreement. It will include representatives of each Government and other parties that the Governments consider would be helpful to the work of the Forum. The Forum will provide a means for ensuring continuous consultation and exchange of information between the two Governments and a means for resolving issues without the need to invoke the more formal Conciliation process – also provided for in the New Framework Agreement. The Forum will meet as appropriate, probably twice yearly or at other intervals at the request of either Government and shall be subject to such further arrangements as may be agreed by the two Governments from time to time.

CHAPTER 3

LAYING, OPERATION AND USE OF PIPELINES

3.A Scope and Definition of Cross-Boundary Pipelines

Unless covered by existing oil and gas treaties, a Cross-Boundary Pipeline is:

- a pipeline crossing the delimitation line transporting hydrocarbons from one continental shelf to a destination on the other continental shelf or in the territory of the other State;
- any connection point to that pipeline introducing hydrocarbons from that other continental shelf; or
- a pipeline associated with a transboundary reservoir, whether crossing the delimitation line or not, and in which licensees of both States have an interest.

3.B Laying and Operation

Where the two Governments and their respective licensees agree to a Cross-Boundary Pipeline project, the following principles shall be implemented:

- The two Governments shall individually issue the licences and give the approvals and authorisations required by their respective national laws for the laying and technical operation of a Cross-Boundary Pipeline;
- The appointment/change of operator of a Cross-Boundary Pipeline is subject to the approval of both Governments;
- Both Governments shall approve the timing of the decommissioning of a Cross-Boundary Pipeline;
- The aim of both Governments will be to seek to reach agreement on decommissioning methods and standards and, where approvals are to be granted by each Government, they should be granted simultaneously.
- In respect of the decommissioning of Britpipe, the two Governments shall approve the timing, methods and standards of such decommissioning.

- Any approvals or authorisations referred to in this section shall be given coherently and simultaneously.

3.C Access System

3.C.1 Terms and Conditions

Access, including tariffs and other conditions, to any pipeline on either continental shelf shall be in accordance with applicable EU Law, including the provisions of the Gas Directive (see Annex B), and applying the principles of fairness, non-discrimination, transparency and open access to spare capacity, avoiding any abuse of a dominant position or other anti-competitive behaviour.

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

Where a Government determines the financial terms for the access to pipelines for hydrocarbons related to a cross-boundary project, those terms should be such that they promote the optimal use of Norwegian and UK pipelines and do not inhibit alternative options for using existing pipelines and pipeline systems, in whole or in part, for the transportation of hydrocarbons from one State to the other State.

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

Where it is agreed between the two Governments that there is merit in applying the access regime applicable to a Cross-Boundary Pipeline on one continental shelf to that same pipeline on the continental shelf of the other State, but not in that coastal State's territorial waters, such application shall be on a case-by-case basis. Such agreement has been reached in respect of the application of the Norwegian regulated access system to "Britpipe".

3.C.2.1 Entry Points and Tariffs

This section applies to the setting of regulated entry points and entry tariffs for Britpipe for hydrocarbons produced from a reservoir wholly or in part on the United Kingdom continental shelf. Entry tariffs will normally be set at zero, subject to adjustments for positive / negative effects on the throughput and provided that all costs related to the tie-in are otherwise covered.

Such entry points and tariffs shall be agreed jointly by the two Governments. The two Governments shall upon request supply commercial parties with relevant information regarding the setting of new entry tariffs in such a manner as to provide predictability prior to investment decisions, without undue delay, and, if possible, within 16 weeks of such request. Such tariffs shall be formally determined simultaneously with the approval of the relevant project.

The conditions set out above may also apply to other Cross-Boundary Pipelines if so agreed by the two Governments.

3.C.2.2 Exit Points and Tariffs

This Section applies to the setting of regulated exit tariffs, offshore, by the Norwegian Government for oil and gas exiting the Norwegian regulated system for onward transportation to the UK. The setting of such tariffs shall be in accordance with the principles set out at Annex C, and after full consultation with the UK Government. The principles shall be applied on a case by case basis as agreed between the two Governments. In any event, they shall apply in connection with the establishment of the First Dry Gas Link between Norwegian and UK offshore infrastructure. The Work Process associated with the establishment of the First Dry Gas Link is at Annex A.

Where it falls to the Norwegian Government to determine an exit tariff offshore, it will provide sufficient information to the UK Government to enable that Government properly to satisfy itself that the decision fully and properly takes into account the principles set out at Annex C.

For the avoidance of doubt, the Norwegian Government sets exit tariffs, onshore, for Britpipe.

3.D Dispute Mechanism

This section applies to:

- (a) any dispute between the owner or operator of Britpipe and a shipper of hydrocarbons originating from the UK continental shelf as to whether or not the owner or operator of Britpipe has fully and properly applied the terms and conditions laid down in the applicable regulated system;
- (b) any dispute concerning a tariff between the owner or operator of a UK pipeline to which the First Dry Gas Link is to be connected and a shipper of hydrocarbons originating from the Norwegian continental shelf; and
- (c) any dispute with regard to access to any other Cross-Boundary Pipeline, not covered by (a) or (b) above, to the extent agreed by the two Governments.

As regards a dispute set out at (a), the dispute shall be submitted simultaneously to both Governments who shall jointly resolve the dispute. The two Governments are committed to arrive at a decision within a reasonable time frame, taking into account the need for a speedy resolution. The principles underlying the determination of the dispute between the two Governments shall be transparent and non-discriminatory and wholly in accordance with Section 3.C.1. The decision of the two Governments is binding on all the parties involved.

As regards a dispute set out at (b), the dispute shall be resolved by the UK Government in accordance with the principles set out at Annex D after fully consulting the Norwegian Government. The UK Government will provide sufficient information to the Norwegian Government to enable the latter Government properly to satisfy itself that the decision fully and properly takes into account the principles set out in Annex D.

CHAPTER 4

JOINT EXPLOITATION OF TRANSBOUNDARY (MEDIAN LINE FIELD) RESERVOIRS AS A UNIT

Where the two Governments and their respective licensees agree that a petroleum reservoir extends across the delimitation line and is to be exploited, both Governments shall agree on:

- the licensees' agreement;
- the approval of the development plan and any amendments to the plan;
- the establishment of the total amount of reserves, the apportionment of the reserves and the procedures for carrying out and applying the outcome of redeterminations;
- the appointment of a unit operator and any change of operator;
- the use of infrastructure for third party development; and
- the timing of the cessation of production from the reservoir.

CHAPTER 5

USE OF INFRASTRUCTURE ACROSS THE DELIMITATION LINE – HOST FACILITY DEVELOPMENT

Where the two Governments and their respective licensees agree to a project for the use of infrastructure on one side of the delimitation line to explore for or exploit a hydrocarbon reservoir on the other side of the delimitation line or to process hydrocarbons from such a reservoir, the following principles shall be implemented:

- the two Governments shall grant any necessary approvals for the use of infrastructure on one side of the delimitation line to exploit a reservoir on the other side of the line or to drill an exploration well into a hydrocarbon prospect on the other side of that line;
- the two Governments shall agree on the simultaneous adoption of the reservoir development plan and any modification to the development plan relating to the host infrastructure in respect of that reservoir development, submitted to the relevant Government by its licensees and in accordance with its national legislation;
- appointment/change of operator of the reservoir and/or the host infrastructure is subject to the approval of the relevant Government after consultation with the other Government;
- decommissioning plans for infrastructure, excluding pipelines, used in a host facility development project are subject to approval by the relevant Government after consultation with the other Government; and
- any Governmental decision with regard to activities undertaken on the host infrastructure which has an important impact on the management of the reservoir on the other side of the median line shall be made by the relevant Government in close consultation with the other Government, taking due account of all matters raised by that Government. An example of such a decision would be the timing of the cessation of activities on the host infrastructure.

CHAPTER 6
DISPUTE SETTLEMENT

Conciliation Board

Should the two Governments fail to reach agreement on the interpretation or application of this Agreement including disagreement on any matter to be resolved under it, the following dispute settlement procedure shall apply unless separately provided for in this Agreement *viz* expert procedures in relation to the apportionment and reapportionment of reserves, and unless the two Governments agree otherwise:

- (i) Either Government may request that the disputed matter be submitted to a Conciliation Board;
- (ii) The Conciliation Board shall consist of five members, of which each Government designates two members, and the four members so designated, designate the fifth (and who shall not be a national of or habitually reside in the United Kingdom or in the Kingdom of Norway and who will act as the Chairman of the Board);
- (iii) If either Government fails to designate one or more members of the Conciliation Board within one month of a request to do so, either Government may request the President of the International Court of Justice to designate the required number of members;
- (iv) The same procedure *mutatis mutandis* shall apply if the four Conciliation Board members fail to designate a fifth member to act as Chairman within one month of the designation of the fourth member;
- (v) The Conciliation Board shall be entitled to all relevant information and may carry out any necessary consultations;
- (vi) The Conciliation Board shall be required to reach a decision within a reasonable time limit (taking into account the need for a speedy resolution); and
- (vii) Decisions of the Conciliation Board shall be taken by simple majority and shall be binding on the two Governments.

- (viii) Further rules of procedure relating to decisions of the Conciliation Board may be agreed by the two Governments.

Where it falls to one Government, in accordance with Chapter 3, to determine an exit tariff, offshore, in a regulated access system or to settle a dispute over a tariff in a negotiated access system and the Forum has been unable to resolve a disagreement between the two Governments on the matter in question, the following shall apply:

The Conciliation Board shall consider, at the request of either Government, whether:

- a) the information provided by the Government taking the decision to the other Government was sufficient to enable that Government properly to satisfy itself that the decision fully and properly took into account the principles at Annex C or Annex D.
- b) the decision fully and properly took account of the relevant principles at Annex C or Annex D.

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

The following describes the process for establishing additional capacity for dry gas transport from the Gassled dry gas system to the UK, i.e. capacity in excess of the Vesterled and the planned Sleipner – Easington pipelines. This work process will involve Gassco (Operator of the NCS dry gas infrastructure), the owners of gas infrastructure in Norway and UK, gas shippers and the Authorities in both countries (MPE / NPD / DTI).

The annual Shipping and Transport Plans prepared and maintained by Gassco summarise the bookings and requests for future transport capacity by all companies (i.e. Shippers) on the NCS. The requested capacities in the Shipping Plan are based on indicative volumes. The information provided by the Shippers identify both the entry and exit points for the different Gassled Areas (e.g. Area D – dry gas system) in the NCS gas transportation system. The annual Transport Plan published in Q4 of each year identifies the need for possible new transportation capacity and will determine the need for a new, dry gas connection from the NCS to the UK. Timing (i.e. start up year) and the alternative NCS node points to be assessed (e.g. Draupner, Sleipner, Heimdal etc.) will be included.

For example, the Shipping Plan for 2003, presented to the User Forum on 12 June 2003 showed a requirement for an aggregated future capacity for shipments of dry gas to the UK from 2008 of 120 M_{cm}³/d. Current, planned capacity (Vesterled + new Sleipner/Easington pipeline) is 105 M_{sm}³/d, giving a need for possible new transport solutions from NCS to UK from 2008 of up to 15 M_{sm}³/d.

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

An updated Transport Plan will be published by Gassco late 2003. If it concludes that additional transport capacity is required and the shippers are prepared to take forward a project then they will open commercial discussions with UK infrastructure owners and potential investor groups. It is expected that

such discussions would start summer 2004. At the same time, the shippers and investors will initiate the commercial process with Gassco, on behalf of Gassled, for a tie-in to the Norwegian Gassled dry gas system. Exit tariffs will be determined by the Norwegian Government in accordance with 'The principles for determining exit tariffs from the Norwegian dry gas system into UK infrastructure.' It is recognised that the potential investors and shippers must have early information on the cost of transportation in both the new and existing transportation systems to provide a basis for their investment and booking decisions.

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

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

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

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

EXTRACT FROM GAS DIRECTIVE 2003 / 55 EC**DIRECTIVE 2003/55/EC OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL CONCERNING COMMON RULES
FOR THE INTERNAL MARKET IN NATURAL GAS
AND REPEALING DIRECTIVE 98/30/EC****Article 20****Access to upstream pipeline networks**

1. Member States shall take the necessary measures to ensure that natural gas undertakings and eligible customers, wherever they are located, are able to obtain access to upstream pipeline networks, including facilities supplying technical services incidental to such access, in accordance with this Article, except for the parts of such networks and facilities which are used for local production operations at the site of a field where the gas is produced.
2. The access referred to in paragraph 1 shall be provided in a manner determined by the Member State in accordance with the relevant legal instruments. Member States shall apply the objectives of fair and open access, achieving a competitive market in natural gas and avoiding any abuse of a dominant position, taking into account security and regularity of supplies, capacity which is or can reasonably be made available, and environmental protection. The following may be taken into account:
 - (a) the need to refuse access where there is an incompatibility of technical specifications which cannot be reasonably overcome;
 - (b) the need to avoid difficulties which cannot be reasonably overcome and could prejudice the efficient, current and planned future production of hydrocarbons, including that from fields of marginal economic viability;
 - (c) the need to respect the duly substantiated reasonable needs of the owner or operator of the upstream pipeline network for the transport and processing of gas and the interests of all other users of the upstream pipeline network or relevant processing or handling facilities who may be affected; and
 - (d) the need to apply their laws and administrative procedures, in conformity with Community law, for the grant of authorisation for production or upstream development.

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

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

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

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

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

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

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

THIRD PARTY ACCESS TO UPSTREAM INFRASTRUCTURE ON THE UKCS: TARIFF SETTING PRINCIPLES

1. The UK Government supports the principle of non-discriminatory negotiated access to upstream infrastructure on the UKCS, encourages transparency and promotes fairness for all parties concerned since it is important that prospective users have fair access to infrastructure at competitive prices whilst recognising that spare capacity in upstream infrastructure has a commercial value and that, having borne the cost and risk of installing it, the owner should be entitled to derive a fair commercial consideration for that value. Any tariff imposed by the Secretary of State would, accordingly, reflect a fair payment to the owner for real costs and for opportunities forgone.
2. If the Secretary of State's powers to require access and to set a tariff were to be used:
 - (i) Infrastructure owners would have all costs reimbursed, including indirect ones (e.g. the cost of interruption to the owner's throughput while a line is modified to enable third party use);
 - (ii) the tariff would be set so that the third party would bear a fair share of the total running costs incurred after his entry;
 - (iii) unless the supply in question were marginal or the infrastructure owner had already made other sufficient arrangements to recover the full capital costs, the financial arrangements proposed would normally be expected to take account of the basic capital costs¹ as well as the costs arising from the entry of the third party.
3. On occasion, prospective third party users may be competing for access to the same limited capacity in infrastructure. In such circumstances, the Secretary of State is unlikely to require the owner to make the capacity available to a prospective user who values the capacity less than other prospective users and thus does not offer a better deal for the owner.

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

4. For infrastructure with insufficient ullage to accommodate a third party's requirements, given the owner's rights and existing contractual commitments, the Secretary of State is unlikely to require access to be provided. If he were to do so, the tariff would need to reflect at least the cost to the infrastructure owner of backing off their own production and/or another party's contracted usage to accommodate the third party's (i.e. be based on the concept of opportunity cost).