Norway: Award system

- The most important licence: The production licence (PA Chapter 3)
- Discretionary system: (MPE decides if, when, where, to whom and on what conditions to carry out petroleum activities
- Production licences normally awarded in dedicated licensing rounds – ad hoc awards possible
  - Ordinarily licencing rounds appr. every other year
  - Awards in pre-defines areas (APA) every year
- Licensing round: Foreign and national companies are invited to apply for a production licence in defined areas within a set time limit
- The first licensing round on the Norwegian Continental Shelf was conducted in 1965 – the 22st Licensing Round in process – awards planned for spring 2013
### APA – awards in pre-defined areas
- In mature areas on the Continental Shelf
- Areas announced in January/February
- Time limit to submit applications: Mid-September
- Awards in December/January
- Areas for application may be included during the application period – relinquished areas
- The largest oil discovery in the world in 2011 was made in a APA production licence

### A licencing round

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**Awards in Predefined Areas**

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Norwegian Ministry of Petroleum and Energy
Nomination

- Administrative practice – not a legal obligation
- Invitation to the oil companies to recommend blocks to be announced in the upcoming licencing round
- Advisory – not binding on the Ministry
- No obligation on the company to apply for blocks nominated
- The companies may nominate max 15 blocks each
- Nomination is no condition for subsequent application and award
- Nominated blocks are termed “interesting” and “very interesting”

Preparing for announcement

- MPE recommends blocks to be included in the upcoming licencing round:
  - Recommendation is based on nominations from industry and geological evaluations made by the Petroleum Directorate
- Conditions relating to fisheries and environment protection are included in the Government’s plan for integrated management of the ocean areas
- The blocks recommended are submitted for public consultation for 6 weeks
- The proposal for blocks to be announced is presented to the Cabinet of Ministers, which is making the final decisions on blocks to be announced
Announcement

- Invitation from the MPE to apply for production licences – Official Gazette/Official Journal of the European Community – PA Section 3-5/PR Section 7
- Contents:
  - Requirements to the applicant
  - Blocks announced – PA Section 3-5
  - Conditions for award – PR Section 11
  - Award criteria – PR Section 10
  - Contents of the application – PR Section 8
  - Time limit for application – at least 90 days – PA Section 3-5
  - Practical information

Application

- Legal or natural person (PA Section 3-2 second paragraph)
- Individual or group applications
- The blocks applied for – priority
- Operator/licensee
- Geological evaluation
- Prospect economic analysis
- Technical competence
- Financial strength
- Health, safety and environment
- Company related issues
Negotiations

- Negotiations between MPE/NPD on the one side and the applicant(s) on the other

- Issues for negotiation
  - Work obligation (in initial period)
  - Geographical area of the production licence
  - Operatorship (as appropriate) and participating interest
  - Licensing period
  - Relinquishment of parts of the area of the production licence

Award - criteria

- The award shall be based on objective criteria to ensure the best resource management possible (PR § 10):
  - Geological understanding, high pressure/high temperature, relevant technical expertise and HSE expertise, sufficient financial strength
  - Applicant’s plans for exploration and production in the relevant area
  - Applicant’s experience on the Norwegian Continental Shelf or from other relevant areas
  - The authorities’ experience with the ongoing or previous petroleum activities of the applicant
Award

- Proposal for award presented to Cabinet by MPE advise from NPD
- Ministry of Labour/Petroleum Safety Authority – HSE
- Proposal submitted to Ministry of Fisheries and Coastal Affairs and Ministry of Environment
- Proposal subsequently submitted to Cabinet of Ministers for decision on the award
- MPE sends offering letter to all companies included in the award
- Time limit for response: 10 days
- Final award by King in Council (PA Section 3-3 first paragraph)

Production licence
The Ministry of Petroleum and Energy:

- Composes the licence group (individual vs. group applications)

- Appoints the operator/approves change of operator (PA Section 3-7)

- Decides the size of the participating share of each licensee

- Decides State participation and the size of the participating share of the State
The production licence (model format)

- Rules of general application stipulated in the Petroleum Act and Regulations
- Specific rights and obligations are included in the production licence:
  - Area comprised by the licence (coordinates)
  - Composition of the licence group
  - Duration: Maximum 10 years + 30 (50) years (PA Section 3-9)
  - Mandatory work obligation (PA Section 3-8):
    - Gathering and interpretation of seismic data
    - Drilling a defined number of exploration wells/drill or drop
  - Operator
  - Obligation to form a joint venture
  - State participation – decided upon award

Production licence - characteristics

- **Exclusive right** to explore for and produce petroleum in a defined area for a defined time period (efficiency through competition in the award phase)
- Obliges licensees to form a joint venture - pooling of resources, capital, competence, research, plurality of ideas and internal checks and balances
- Risk, cost and profit shared between the licensees (including the State) in accordance with their participating interest in the joint venture
- Title to petroleum produced - incentives for industry to make a “bigger cake”
- State participation
Work obligation: Drill or drop – ensuring active use of acreage

Acreage available in predefined area

Decision:
Accept license

Yes
Drill well

No – license not awarded

Carry out G&G work. Prepare decision on drilling a well

No – relinquish the license

Drill well and evaluate results. Prepare decision on making PDO.

No – relinquish the license

Prepare PDO. Prepare decision on submission of PDO.

No – relinquish the license

Develop the field.

Production start

Norwegian Ministry of Petroleum and Energy

Consequences of a more flexibly formulated work obligation

More flexible work obligations:
More choices for the licensees, but decisions at the end of each activity period have immediate consequences

The use of activity periods within the work obligation:
Quick and efficient exploration

The licensees
• No advance obligation to accept a costly work obligation
• Decision to drill is based on thorough seismic evaluations

The authorities
• All acreage awarded will be explored in an efficient manner – or relinquished
• Relinquishment shortly after award if the licensees do not decide on further exploration

Norwegian Ministry of Petroleum and Energy
The licencing framework

Condition for the award of a production licence:

- Licencees are obliged to enter into an Agreement between themselves (PA Section 3-3 fourth paragraph) within 30 days of award:
  - Model agreement with two (model) attachments:
    - Joint Operating Agreement
    - Accounting Agreement
  - Budgets
  - Allocation of cost between licensees
- + Until 1991:
  - (Model) training Agreement
  - R&D clause/agreement
  - Goodwill clause
The joint venture

- Upon signing of the Agreement the licensees form a joint venture:
  - Plurality of ideas
  - Pooling of resources
  - Capital
  - Competence
  - Research – access to newest technology
  - Checks and balances
- Joint operations and operator appointed by MPE
- Risk and profit shared between the licensees (including the State) according to their participating interest in the joint venture
- Licensee becomes owner of proportionate share of petroleum produced - incentives for industry to “make the cake bigger”
- Potential for Government control

The Agreement concerning petroleum activities

Stipulates:

- Participating interest of each licensee
- Operator
- Voting rules and procedures
  - The voting rule for the joint venture is formulated by the Ministry
  - Decisions are made when a combination of the number of licensees (a majority) and the size of their participating interest (a majority) have voted in favour of a decision
  - All changes of the joint venture are subject to a change of the voting rule – subject to Ministry approval
- Amendments to, exceptions from or supplements to this Agreement subject to approval by the Ministry of Petroleum and Energy
The Agreement for petroleum activities

1. By Royal Decree of XX
   • X
   • [Petoro AS]
   • X
   • have jointly been awarded petroleum production licence ..... concerning petroleum activities (the Production Licence) covering block(s) [........]

2. The Parties and Participating interest [.........]

3. Voting rules:
   • Unless otherwise specified in this Agreement, a decision by the management committee is adopted when at least y of the Members representing at least x % of the Participating interests have voted in favour of a proposal, [provided, however, that {one or more individualized company(ies)/public entity(ies)} do not constitute a quorum.]

Voting rules

• Voting rules structures so as to render voting weight also to licensees with a minority share

• Combination of the number of licensees and the size of their participating interest in the joint venture

• No licensee to have a veto right (if this can avoided)
The Joint Operating Agreement

- Stipulates (among others):
  - Duties of operator and change of operator
  - Management committee (main body of the joint venture)
  - Corporate governance
  - Financing and economy
  - Accounting
  - Annual work program and budget
  - Approval for expenditure (no budget item may be exceeded by more than the lower of 5 % or NOK 75 mill)
  - Procurement
  - Field development – sole risk
  - Assignment
  - Withdrawal

Relinquishment

- Relinquishment of parts of the area of the production licence:
  - In the initial period: Any time upon 3 months’ notice (PA Section 3-14)
  - On expiry of the initial period (subject to fulfillment of the work obligation) (PA Section 3-9 second para)
  - During extension period: 3 months’ notice/yearend (PA Section 3-14)
- Relinquishment of the whole licence:
  - In the initial period: 3 months’ notice (PA Section 3-15)
  - During extension period: 3 months’ notice/yearend
  - All obligations under the production licence must be fulfilled
Relinquishment – new vs. former practice upon expiry of initial period

Former practice: 50% relinquishment upon expiry of the initial period

Present practice: Relinquishment of all acreage not included in a PDO (mature areas) / resources proven by drilling (frontier areas)

Area fee – PR Section 39

• The fee:
  – Year 1: 30 000 NOK/km²
  – Year 2: 60 000 NOK/km²
  – Year 3 onwards: 120 000 NOK/km²

• No area fee in initial period (as originally stipulated)

• Area fee in extended initial period

• In extension period: Area fee to be paid only for licence acreage outside PDO-area + area fee for PDO-area when production has ceased

• In extension period: Two years exemption for drilling wildcat wells

• Exemptions possible – subject to application
Change of conditions, expropriation

Postponement of exploration drilling and development

Petroleum Act Section 4-5
- The Ministry may decide that exploration drilling or development of a deposit shall be postponed

The provisions relating to extension of the licence, extension of the time limit set for implementing the work obligation and payment of area fee during the extension period in Section 3-13 third, fourth and fifth paragraphs shall apply accordingly

Petroleum Act Section 3-13 third paragraph
- Anyone subject to postponement of his activities may require extension of the licence for a period of time corresponding to the postponement. If the postponement only applies to a limited part of the activities which may be conducted pursuant to the licence, the Ministry may stipulate a shorter period for the extension, decide that extension shall not be granted or that extension shall only be granted for part of the area to which the licence applies
**Postponement etc.**

*Petroleum Act Section 3-13 fourth and fifth paragraphs*

- If the postponement has the effect that the work obligation imposed according to Section 3-8 cannot be accomplished within the stipulated time limit, the time limit shall be extended to the extent necessary.
- If the petroleum activities are postponed, the area fee for the extension period shall be waived or reduced according to the discretionary judgement of the Ministry. Fees which have been paid in advance shall not be refunded.

- Expropriation is possible:
  - Upon payment of full compensation
  - Environmental reasons
  - Has never occurred in practice

**The Big Change**

- **Requirement in all Agreements for petroleum activities:**
  - Amendments to, exceptions from or supplements to this Agreement shall be submitted to the Ministry for approval.
  - JOAs varied somewhat from licensing round to licensing round
  - Industry guidelines were developed without Ministry approval – opaque change of JOAs
  - Ministry: Renewal of JOA and Accounting Agreement necessary – should be identical for all
  - Sanctity of contract – retroactive effect:
    - Licensees given choice:
      - Voluntary change of licence agreements for all
      - New licence agreements by law
  - **As of 1 January 2007:** New licence agreements – identical for all
    - all previous licence agreements abolished
    - Licence Agreement + JOA (Attachment 1) + Accounting Agreement (Attachment 2)