



North Sea
Transition
Authority

Consultation on proposal to issue NSTA Guidance on the conduct of licence assignments

Contents

General information	3
Introduction and background	5
Consultation questions	7
Regulatory Impact Assessment and Equality Impact Assessment	8
Annex 1: Guidance on the conduct of licence assignments	9
Annex 2: Response coversheet	23

The document can be found on the NSTA's website.

© NSTA Copyright 2023

URN

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the NSTA open user licence.

This document is available in large print, audio and braille on request. Please email: correspondence@nstauthority.co.uk with the version you require.

Enquiries to:
North Sea Transition Authority
Sanctuary Buildings
20 Great Smith Street
London
SW1P 3BT

Email: transactionsconsultation@nstauthority.co.uk

Published by the North Sea Transition Authority

General information

Purpose of this consultation

The purpose of this consultation is to set out and seek views on proposed NSTA¹ Guidance on the conduct of licence assignments (the “**Guidance**”).

This consultation invites views on the Guidance from those who will be required to act in accordance with the Strategy and those seeking to invest in the UKCS.

Issued: 28 March 2023

Respond by: 23 May 2023

Territorial extent: United Kingdom and UKCS

Responding to this consultation

The NSTA invites written views and comments on the proposed Guidance, to be made by 23 May 2023. Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Please submit your response by email or post.

The NSTA has produced a coversheet for responses submitted by email or post (see Annex 2) and asks that you complete and include it with your response, which should speed up the processing of responses and help to maintain confidentiality where appropriate.

Written responses to the consultation should be sent to:

North Sea Transition Authority
Sanctuary Buildings
20 Great Smith Street
London
SW1P 2BT

Email: transactionsconsultation@nstauthority.co.uk

Representative groups are asked to give a summary of the persons or organisations they represent when they respond.

¹ The North Sea Transition Authority (“NSTA”) is the business name of the Oil and Gas Authority (“OGA”). References to the NSTA should be interpreted as the OGA and vice versa.

Additional copies:

Other versions of the document in Braille, large print, audio or Welsh can be made available on request. Please contact us using the 'enquiries' details to request alternative versions.

Confidentiality and data protection

The NSTA will aim to publish a summary of the responses to this consultation and its response in early 2023.

The NSTA does not intend to publish individual responses to this consultation. However, the NSTA is subject to the requirements of the Freedom of Information Act 2000 so if you think any part of your response should be kept confidential, please place such part(s) in a separate annex to your response and include your reasons why this part of your response should not be published. For example, this may include information such as your personal background and experience. Therefore, if you want your personal details to remain confidential, please provide them in the coversheet only so that the NSTA does not have to edit your response.

If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this.

Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to the NSTA to use for its regulatory remit.

Quality assurance

This consultation has been carried out in line with [the government's consultation principles](#).

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

NSTA Consultation Coordinator
Sanctuary Buildings
20 Great Smith Street
London
SW1P 2BT

Email:

NSTAconsultationcoordinator@NSTAauthority.co.uk

Introduction and background

1. The NSTA is focussed on maintaining a stable and predictable system of regulation which encourages investment in oil, gas, carbon storage operations and in energy transition projects in the UKCS. Delays to assignments can potentially discourage investment in the UKCS.
2. The UKCS has seen a marked increase in the acquisition and disposal of licence interests in recent years. These transactions have brought new capital, new ideas and new vigour to the UKCS. The NSTA considers that new capital continues to be needed if industry is to meet the Central Obligation of the Strategy (the “Central Obligation”). Assignments can help ensure that the right assets are in the right hands.
3. The NSTA recognises that a transaction may be delayed for good reasons and that a consenting party might have good reason to withhold consent. Nevertheless, the NSTA is concerned that some transactions have been delayed or threatened because of the time taken to obtain the consent required from the relevant consenting parties to allow the assignment to proceed.
4. Industry participants have continued to raise these issues and their concerns to the NSTA. This is despite the existence of best practice guidance published by Offshore Energies UK (“OEUK”) and the NSTA in recent years, including OEUK’s Negotiations Best Practice (2017)² and Transactions Best Practice (2019) which set out industry-led best practice guidance on negotiating and completing transactions³.
5. In light of these concerns, the NSTA wishes to consult licensees, infrastructure owners and those seeking to access the UKCS regarding the proposed Guidance on the principles to be followed when seeking to conduct assignments. The proposed Guidance seeks to support and provide confidence to current licensees and potential future investors during transactions involving a licence assignment.
6. The NSTA aims to promote the good reputation of the UKCS as a reliable place to do business. This consultation document and the proposed Guidance set out how the NSTA will normally consider the conduct of licensees and prospective entrants into the UKCS in the context of a transaction involving an assignment.

² <http://oeuk.org.uk/product/negotiations-best-practice/>

³ <https://oeuk.org.uk/product/transactions-best-practice-technical-notes/>

7. The NSTA further intends to use the Guidance, where applicable, for the purpose of assessing compliance with the Strategy and the fulfilment of the obligations on relevant persons to comply with section 9C of the Petroleum Act 1998 where an assignment is delayed or jeopardised by Relevant Persons⁴.
8. This Guidance regarding the conduct of a licence assignment is not intended to replace all the other statutory obligations and governance requirements with which each Relevant Person may have to comply. The proposed Guidance is not a substitute for any regulation or law and is not legal advice.
9. Where the NSTA makes any assessment of the financial and technical capability of a Licensee, this is done specifically and exclusively for the NSTA's own purposes. This proposed Guidance, and the NSTA's assessment of financial and technical capability, is not intended to replace the other financial and technical requirements, or otherwise, with which each Licensee may have to comply. Third parties should not rely on any statement (or absence of any statement), decision, action or inaction of the NSTA, or rely on the NSTA in any other way, to satisfy themselves as to adequacy of a Licensee's financial capability and technical capability, or otherwise. They will need to carry out their own due diligence on the financial and technical capabilities of those they do business with.
10. The Energy Bill currently being considered by Parliament includes additional powers vested in the NSTA regarding transactions relating to the change of control of licensees. We will issue further guidance regarding licence transactions linked to a change of control if and when Parliament determines that the NSTA should be granted these additional powers.
11. The proposed Guidance can be found at **Annex 1**. It is intended that the Guidance if made will be kept under review and be revised as appropriate in light of experience, developing law and practice and any changes to the NSTA's powers and responsibilities. If the NSTA changes its proposed Guidance in a material way, it will publish a revised document.

⁴ Relevant Persons as defined in section 9A(1)(b) of the Petroleum Act 1998

Consultation questions

1. The NSTA seeks participants' responses to the following questions:

Q1. Do you support the NSTA's proposal to issue Guidance on the conduct of licence assignments?

Q2. Does the proposed Guidance achieve the balance between existing and future UKCS participants' exposure to future costs/commitments and participants' ability to enter and exit the UKCS?

Q3. Do you agree with the principles set out in Chapter 3 of the proposed Guidance – Expectations on the Buyer and Seller? If you do not agree with some or all of these principles, please set out which aspects you do not agree with and why.

Q4. Do you agree with the principles set out in Chapter 4 of the proposed Guidance – Expectations on Consenting Parties? If you do not agree with some or all of these principles, please set out which aspects you do not agree with and why.

Q5. Do you agree with the principles set out in Chapter 5 of the proposed Guidance – Financial and Technical Capability? If you do not agree with some or all of these principles, please set out which aspects you do not agree with and why.

Q6. Do you agree with what should be included within the Capability Pack? If you do not agree with the contents (either that some aspects should/should not be included or should be refined) please set out which aspects you consider should be changed and the changes that you would propose and why.

Q7. Do you agree with the proposed timeline for the Project Plan at Annex 1 of the proposed Guidance? If you do not agree with the proposed timeline (either that some aspects should/should not be included or should be refined) please set out which aspects you consider should be changed and the changes that you would propose and why.

Q8. Do you have any further comments that you would like to make on the proposed Guidance?

Regulatory Impact Assessment and Equality Impact Assessment

1. Efficient M&A activity ensures that valuable investment opportunities are held by companies with the will and the means to invest in them. This in turn supports legislative requirements and the Central Obligation in the Strategy; namely to secure the maximum value of economically recoverable petroleum, and, in doing so, to assist the Secretary of State in meeting the net zero target by reducing greenhouse gas emissions as far as reasonable in the circumstances. Furthermore, it will support the wider North Sea Transition Deal, enabling the sector to transform its UK supply chains, jobs, and local communities.
2. The intended effect of the Guidance is to minimise the number of M&A transactions that proceed slowly or reach an impasse. Such delays lead to additional transaction costs and inefficient use of capital, which can directly reduce the economic value of national resources and more widely, undermine investor confidence and activity in the UK.
3. To address these problems, the Guidance seeks to support, and provide confidence to, current licensees and potential investors during transactions. The approach sets out the information that parties are expected to provide and required conduct during transactions.
4. It is expected that costs to industry from familiarisation with the Guidance and any incremental administrative costs from information sharing and conduct expectations will be more than offset by avoiding the costs associated with protracted negotiations and the wider detrimental impacts on production activity in the UK. Respondents to the consultation are invited to provide any views and supporting evidence on the costs and benefits associated with the proposed Guidance.
5. The NSTA has a general duty under the Equality Act 2010 in carrying out its functions to have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation;
 - advance equality of opportunity between different groups; and,
 - foster good relations between different groups.Further details can be found [here](#).
6. We have considered whether the proposed Guidance would have an adverse impact on persons with protected characteristics. Our assessment is that, given the corporate nature of relevant persons and the general application of the proposed Guidance, it is not anticipated that there would be such an impact.
7. If any reader of this consultation document thinks that the proposed Guidance will have an adverse impact on persons with protected characteristics, please respond to the consultation with as much detail as possible.

Annex 1: Guidance on the conduct of licence assignments

1. Scope and purpose of this guidance

1.1. This guidance (this “**Guidance**”) covers transactions for the assignment of offshore petroleum production licences in the UK continental shelf (“**UKCS**”)¹. It provides general guidance on the expectations placed on the parties involved in such transactions.

1.2. For the purpose of this Guidance, an assignment is a proposed transaction which is covered by the relevant Model Clauses and requires the NSTA’s prior written consent. Specifically, this will apply where one or more companies intends to acquire (or increase) an interest in an existing licence (the “**Buyer**”) and/or one or more companies intends to withdraw from or reduce an interest in a licence (the “**Seller**”) (“**Assignment**” or “**Assignments**” as the context requires). The Guidance applies irrespective of whether the Assignment is between companies within the same corporate group structure or between separate corporate groups.

1.3. [This Guidance has been developed following consultation with industry].

1.4. This Guidance sets out principles that Relevant Persons² should normally apply when seeking to conclude Assignments and focuses on:

- A. **Expectations of the Buyer and Seller** – sets out the steps to be taken by a Buyer and a Seller when preparing for and implementing an Assignment.
- B. **Expectations of the Consenting Parties** – addresses what is expected from the Relevant Persons who are parties to each joint venture (“**JV**”) agreement (“**Co-venturers**”) that the Buyer is seeking to join and any other relevant parties whose consent is required for the Assignment as well as the parties to any agreements which require to be novated as part of the Assignment (together, “**Consenting Parties**”).
- C. **Financial and Technical Capability** – sets out principles regarding the financial and technical conditions that should reasonably be expected for a Consenting Party to consent to an Assignment.

¹ It does not cover where there is a change of control, on which refer to North Sea Transition Authority (NSTA): Change of control - Licensing system - Licensing & consents (nstauthority.co.uk)

² For the definition of “Relevant Person”, see s.9A(1)(b) of the Petroleum Act 1998

- 1.5. Each section relates to an aspect of the Assignment referred to in paragraph 1.4 above and is provided to assist Buyers, Sellers and Consenting Parties when planning and conducting such Assignments.
- 1.6. Where the consent of a third party, which is not a Co-venturer, is required to complete the Assignment, the NSTA expects the Buyer and Seller to apply the same principles to their communication and engagement with those third parties as are set out in Section 3 below.
- 1.7. This Guidance does not cover the separate process for obtaining the NSTA's consent to an Assignment. The process for obtaining the NSTA's consent, which the Seller is required to do under the applicable licence Model Clauses, is set out on the NSTA's website here.
- 1.8. This Guidance is not a substitute for any regulation or law and is not legal advice. It does not have binding legal effect.
- 1.9. Where the NSTA makes any assessment of the conduct and/or capability of a Relevant Person, this is done specifically and exclusively for the NSTA's own purposes and is not to be relied on by any third parties. This Guidance (and any NSTA assessment) is not intended to replace other requirements with which Relevant Persons may have to comply. Third parties should not rely on any statement (or absence of any statement), decision, action or inaction of the NSTA, or rely on the NSTA in any other way, to satisfy themselves as to the adequacy of another party's conduct or ability to meet its commitments. Third parties will need to carry out their own assessments and due diligence regarding such transactions.
- 1.10. Should any of the Buyer, Seller and Consenting Parties depart from the procedure described in this Guidance, they should assure themselves that their choices will lead to as expedient and collaborative way of closing the transaction as that set out in this Guidance. They should also be prepared to write to the NSTA to explain how their approach is as expedient in closing the transaction when compared to following the process set out in this Guidance.
- 1.11. Relevant Person are reminded that they should, at all times, comply with the obligations set out in the Strategy. These obligation include those set out in paragraph 21 of the Strategy that:
- "In undertaking relevant activities, relevant persons must:*
- a. collaborate and co-operate with:*
 - i. other relevant persons;*
 - ii. persons seeking to acquire an interest or invest in offshore licences or infrastructure in a region; and,*
 - iii. persons providing goods or services relating to relevant activities in order to support the delivery of such activities on time and on budget; and,*
 - b. co-operate with the OGA."*

1.12. Where the NSTA finds a breach of a petroleum related requirement, the NSTA may sanction any Relevant Person using its powers under Part 2, Chapter 5 of the Energy Act 2016 (“**EA 2016**”). In exercising its functions, the NSTA, under s.42 of the EA 2016, the NSTA may issue one or more of the following sanctions notices on one or more Relevant Persons:

1.12.1 an enforcement notice

1.12.2 a financial penalty notice

1.12.3 a revocation notice

1.12.4 an operator removal notice

1.13. In the interests of transparency and to inform industry of the relevant principles, the NSTA may publish details of the existence of any investigation and the outcome of such investigation on its website.

1.14. Further information can be found on the NSTA's Sanction process [here](#).

1.15. Where a person is involved in an Assignment but is not a Relevant Person, then the NSTA would still normally expect that person to apply the principles set out in this Guidance and, should their conduct fall below the expectations set out in this Guidance, the NSTA will likely consider the steps available to it to address this. Such steps might include the use of open letters to identify the conduct and the parties involved as well as referrals to other regulators or statutory bodies which might have a role in overseeing that person.

1.16. Any queries to the NSTA with regard to this guidance should be directed to the Licensing team at transactionsconsultation@nstaauthority.co.uk

2. Background

- 2.1. The UKCS has seen a marked increase in the acquisition and disposal of licence interests in recent years. These transactions have brought new capital, new ideas and new vigour to the UKCS. The NSTA considers that new capital continues to be needed if industry is to meet the Central Obligation of the Strategy (the “**Central Obligation**”). Assignments can help ensure that the right assets are in the right hands.
- 2.2. In preparing this Guidance, the NSTA has regard in particular to the need to maintain a stable and predictable system of regulation which encourages investment in oil, gas, carbon storage operations and in energy transition projects in the UKCS. Delays to Assignments can discourage future investment in the UKCS and harm public investor confidence.
- 2.3. The NSTA recognises that a transaction may be delayed for good reasons and that a Consenting Party might have good reason to withhold its consent. Nevertheless, the NSTA is concerned that some transactions have been delayed or threatened because of the time taken to obtain the consent required from the relevant Consenting Party to allow the Assignment to proceed.
- 2.4. Industry participants have continued to raise these issues and their concerns to the NSTA. This is despite the existence of best practice guidance published by Offshore
- Energies UK (“**OEUK**”) and the NSTA in recent years, including OEUK’s Negotiations Best Practice (2017)³ and Transactions Best Practice (2019) which set out industry-led best practice guidance on negotiating and completing transactions⁴.
- 2.5. This Guidance is geared towards striking an appropriate balance between the benefits achieved by a liquid market for the ownership of licence interests and protecting the rights and interests of existing participants in the UKCS who wish to maintain their current holdings. This Guidance supports the following principles, that:
- 2.5.1. Assets within the UKCS are held by the most appropriate owners who are seeking to optimise those assets in accordance with the Central Obligation; and,
- 2.5.2. Investors have general confidence in the ability of Co-venturers’ to meet their relevant licence commitments.
- 2.6. Achieving this balance increases the confidence of current and prospective investors in the UKCS. Increasing the speed and efficiency of transactions reduces costs, frees up Relevant Persons to conduct operations and provides further investment opportunities to meet the Central Obligation.

³ <http://oeuk.org.uk/product/negotiations-best-practice/>

⁴ <https://oeuk.org.uk/product/transactions-best-practice-technical-notes/>

3. Expectations on the Buyer and Seller

3.1. Completing a transaction requires the Buyer and Seller to work together to carefully plan their engagement with Consenting Parties and that the Buyer and Seller engage with one another and with Consenting Parties in a cooperative, collaborative and timely way as required by the Strategy⁵. What information and level of engagement a Consenting Party might need before providing consent will need to be assessed by the Buyer and Seller as part of their planning for the Assignment and kept under review through the Assignment process.

3.2. Planning for the timely completion of an Assignment and then implementing that plan is the joint responsibility of the Buyer and Seller.

3.3. Buyers and Sellers should normally apply the following principles, proportionately to the size and complexity of the transaction, when preparing for an Assignment:

3.3.1. Agree a Project Plan at an early stage, identifying as far as possible the:

3.3.1.1. Consenting Parties.

3.3.1.2. Roles and responsibilities assigned between the Buyer and Seller.

3.3.1.3. Risks to the successful completion of the Assignment that need to be mitigated along with agreement as to how those risks will be mitigated.

3.3.1.4. Resources needed to efficiently and effectively implement the Project Plan.

Annex 1 below set out what should be included in the Project Plan and a timetable for agreeing the Project Plan.

3.3.2. Make it efficient for Consenting Parties to engage with the Project Plan, including by:

3.3.2.1. Engaging constructively and promptly with the Consenting Parties.

3.3.2.2. Anticipating the information that each Consenting Party will reasonably require in order to consent.

3.3.2.3. Where a Consenting Party might reasonably require information on the Buyer's financial or technical capability, provide this information in a Capability Pack (please see Section 5 for what should be contained in a Capability Pack).

3.3.2.4. At an early stage sharing with relevant Consenting Parties the Buyer and Seller's agreed Project Plan.

3.3.2.5. Responding promptly and constructively to

⁵ Paragraphs 21 and 24 of the Strategy

reasonable queries and information requests from the Consenting Parties.

3.3.2.6. Setting out the Buyer's and Seller's analysis as to how their proposed conditions (for securing consent) are consistent with the Strategy.

3.4. Once the Capability Pack can be shared with the Consenting Parties, an initial planning meeting should be set up which should involve the Buyer, Seller and the relevant Consenting Parties.

3.5. Where a Consenting Party identifies significant issues with the Assignment, the Buyer and Seller should propose suitable and reasonable terms to secure the Consenting Party's consent.

3.6. Where suitable terms cannot be agreed to secure consent, the Buyer and Seller should agree a process with the Consenting Party to resolve that dispute.

3.7. Buyers and Sellers should regularly update the NSTA on the progress of the transaction.

4. Expectations on Consenting Parties

- 4.1. Completing a transaction requires Consenting Parties to cooperate with the Buyer and Seller.
- 4.2. The extent of the involvement of a Consenting Party in considering an Assignment will depend on their role. Not all the principles set out below will apply to all Consenting Parties.
- 4.3. In engaging with the Buyer and Seller regarding an Assignment, Consenting Parties should normally apply the following principles:
- 4.3.1. Deal with the request for consent from Buyer and Seller promptly and constructively.
- 4.3.2. Cooperate and collaborate with the Buyer and Seller as early as practicable to attempt to identify issues and agree conditions.
- 4.3.3. Review and agree the proposed Project Plan. Where the proposed Project Plan cannot be agreed, notify the Buyer, the Seller and the NSTA of specific reasons why agreement is not possible.
- 4.3.4. Decide on the extent to which negotiations on the terms of any consent will be led by a particular party on behalf of a JV. Where this is the case, then this should be communicated clearly to the Buyer and Seller.
- 4.3.5. Identify an individual who will be the principal point of contact with the Buyer and Seller. Such a principal point of contact should have:
- 4.3.5.1. responsibility for the conduct of the negotiations,
- 4.3.5.2. authority to make meaningful progress with those negotiations, and
- 4.3.5.3. a direct line of communication with the person or persons who will ultimately make the decision on whether to grant or withhold their consent.
- 4.3.6. Agree a date for (and attend) the initial planning meeting.
- 4.3.7. Prior to the initial planning meeting, review the Capability Pack and notify the Buyer and Seller as far as is possible of what, if any, further information and/or conditions are required for consent to be given.
- 4.3.8. Where further information is requested, specify why this additional information is needed. Such requests should be made at the earliest opportunity.
- 4.3.9. Where conditions on consent are proposed, articulate clearly in writing:
- 4.3.9.1. the conditions sought, and
- 4.3.9.2. why the conditions are sought, including details of the impact on the Consenting Parties that the conditions seek to mitigate.

4.3.10. A Consenting Party which decides to withhold consent, seeks to impose a condition, or seeks to enhance or augment a condition before granting consent, should explain their reasons for withholding consent or requesting enhanced terms before consent will be granted.

4.3.11. In particular:

4.3.11.1. Conditions imposed should be proportionate to the risks they are intended to cover.

4.3.11.2. Consent should not be withheld as leverage for an unconnected commercial matter – such conduct is inconsistent with the OEUK Commercial Code of Practice and the NSTA's Stewardship Expectation 7.

4.3.11.3. Consenting Parties seeking to impose conditions on a Buyer that go beyond existing risk mitigations on Co-venturers, for example, the provision of additional security over and above the DSA that was designed and agreed by Co-venturers to deal with the security issue, should explain why the existing mitigations are

inadequate. Where additional conditions are required then it would be anticipated that reciprocal arrangements should be agreed by the Co-venturers. It should not be the case that unilateral requirements are imposed on the Buyer alone where Co-venturers would be unable to meet the same requirements.

4.3.12. A position taken by a Consenting Party either to withhold consent or to impose a condition on a Buyer to obtain consent, should be consistent with any positions taken in like circumstances by that Consenting Party when acting as the Buyer or Seller, and *vice versa*.

4.4. Where suitable conditions cannot be agreed, the Consenting Party should agree a process with the Buyer and Seller by which to resolve that dispute.

5. Financial and Technical Capability

- 5.1. The NSTA recognises that a Consenting Party, when considering a request to consent to an Assignment, will often consider the financial and technical capability of the proposed Buyer.
- 5.2. Legitimate concerns about financial capability could include, among other things, the Buyer's ability to fund decommissioning liabilities or liabilities arising from a hazard loss incident, or concerns about a Buyer's ability to meet JV billings following a business interruption event.
- 5.3. A Consenting Party may also reasonably question the Buyer's technical capabilities. Such technical capability should be set out in the Capability Pack (see Section 6).
- 5.4. In general, the NSTA considers that the following principles apply in relation to a Consenting Party considering a proposed Buyer's financial and technical capability:
- 5.4.1. The NSTA expects that in most cases a field-wide decommissioning security agreement ("**DSA**") will exist.
- 5.4.2. Where a DSA does not exist, relevant licensees and the Buyer should collaborate to have one in place as soon as possible, rather than imposing unilateral requirements on any one party.
- 5.4.3. It may be appropriate for Co-venturers to require proportionate additional security arrangements to mitigate incremental risks resulting from an Assignment. In such circumstances it is expected that those Co-venturers seeking the additional security set out why it is felt that the proposed Buyer presents such a risk and how the proposed security requirements are proportionate in mitigating the risk.
- 5.5. Whilst seeking additional security from a Buyer might be appropriate, all Co-venturers should be able to demonstrate their own financial resilience to anticipated events covered by the security to an equivalent level. If a Co-venturer cannot demonstrate such equivalence, then the NSTA would expect it to take steps to be able to demonstrate equivalent levels as those expected of the Buyer.
- 5.6. Where a Co-venturer considers that the Assignment would leave it exposed to other financial risks not covered by security (e.g. a Buyer not being able to meet its JV billing obligations, new capital project expenditure or new operators not being able to meet third party liability claims) then Co-venturers should be prepared to articulate those risks to the Buyer, Seller and the NSTA and be prepared to provide reciprocal arrangements/conditions where appropriate.
- 5.7. The assessment of financial and technical competence referred to in this section is separate to any assessments undertaken by the NSTA in the event of an Assignment, as set out on the NSTA's website.

6. Capability Pack

- 6.1 This section sets out the initial information that the Buyer and Seller should provide to the Consenting Parties to ensure they are able to conduct a meaningful evaluation of the Assignment.
- 6.2 This list assumes a transaction that encompasses multiple licences and Consenting Parties. Simpler transactions may require less information. The list is not all-encompassing and the Buyer or Seller may need to add to the Capability Pack described below and provide additional explanation and/or information to the Consenting Parties during the process.
- 6.3 The Buyer and the Seller are expected to provide appropriate Consenting Parties with a Capability Pack as part of the first stage of any request for consent to an Assignment. The Capability Pack will provide the Consenting Parties with sufficient information to make significant progress on their assessment of the transaction.
- 6.4 The Capability Pack will likely include the key corporate and financial information on the Buyer and/or the Buyer's group and their technical capability. The Buyer and Seller are expected to be proactive in collating documents as part of this exercise; simply inviting the Consenting Parties to review financial data on the Buyer's public web page is unlikely to be adequate.
- 6.5 Often the financial information is central to obtaining a Co-venturer's consent and it may be necessary for the Buyer to demonstrate, for example, how it will meet ongoing operating and capital costs if outages in production occur. Of particular concern to the Co-venturers will be details of how the Buyer will ensure it is able to meet its commitments in relation to decommissioning.
- 6.6 *Corporate Information*
- 6.6.1 It is recommended that the Capability Pack should incorporate as a minimum:
- 6.6.1.1 A corporate group structure, setting out the immediate and ultimate ownership of the licensee.
- 6.6.1.2 The identity of all significant shareholders.
- 6.7 *Technical information*
- 6.7.1 In terms of technical capability, the Buyer should be able to demonstrate the following:
- 6.7.1.1 That it can act as a competent member of the JV contributing to the economic and technical aspects. This may, for example, be done through citation of other JVs where the Buyer is actively involved.

6.7.1.2 The Buyer's technical ability to effectively participate and contribute to Technical Committee Meetings ("TCMs") is critical. In circumstances where a Buyer does not have in-house capability of evaluating TCM proposals and respective decisions, then it must procure the necessary expertise so decision making is not unduly delayed.

6.8 *Financial information*

6.8.1 It is recommended that the financial information in the Capability Pack should be prepared by appropriate qualified professionals and incorporate as a minimum:

6.8.1.1 The last three years' statutory accounts for the Buyer and consolidated statutory accounts for the Buyer's group at the level of the ultimate parent. If these do not exist, management accounts may be provided, subject to the satisfaction of the Co-venturers.

6.8.1.2 A forecast balance sheet for the Buyer and the Buyer's group as at the date of the planned completion.

6.8.1.3 A summary of the funding sources that the Buyer expects to employ in support of meeting existing obligations, for example under the Joint Operating Agreement ("JOA") and the licence. This should incorporate details of all funding raised directly by the licensee to support the transaction, or to be provided directly or via another group entity for such purposes (e.g. if bond funding is to be raised by another group company and made available to the licensee details of the bond should be provided rather than funding described simply as "intra-group facilities").

6.8.1.4 Financial information supporting the ongoing future ability of the proposed new licensee to meet existing obligations under the JOA and the licence. This may be in the form of a forecast model providing the Co-venturers with sufficient detail to understand the key factors affecting the liquidity of the licensee. This may also be expected to incorporate the equivalent forecast

position of the Buyer's wider group unless there are financial arrangements in place that make the licensee entity independent of the group for ongoing funding and mean that the liquidity of the licensee could not be impacted by liquidity issues arising within the wider group.

- 6.8.1.5 The Buyer may determine that it is not appropriate for the Co-venturers to be provided with such forecast detail of the wider group due to the confidential nature of such information, or the immateriality of the commitments being made compared to the scale of the licensee's existing business and net worth and may wish to propose an alternative set of metrics. However, the Buyer and Seller should recognise that if detailed information in this area is not sufficient this may reasonably result in a more cautious approach by the Co-venturers when considering the risks that they may be exposed to as a result of the Assignment.

Annex 1 – Project Plan

A1. The NSTA expects a Project Plan to be agreed and adhered to for every Assignment that requires consent from Consenting Parties. The Project Plan for a typical Assignment is expected to incorporate the following:

- The date by which the Consenting Parties are expected to have completed their initial review of the Capability Pack and identified and communicated to the Buyer and Seller any issues and/or any requests for additional information.
- Dates by when the Buyer and the Seller commit to responding to requests for information or documentation.
- An appropriate schedule for subsequent requests and exchanges of information.
- Meetings between the Buyer, Seller and all Consenting Parties to discuss and address any issues.
- Appropriate timelines for engaging with all regulatory bodies that must be approached during the transaction, both UK and overseas, including providing information and answering queries.
- The date by which the Consenting Parties are due to provide their consent.

A2. In establishing the Project Plan, the NSTA expects that the Buyer and Seller will initiate the following activities within these stated time periods:

Event	Expected Latest Timing*
Capability Pack provided to Consenting Parties by the Buyer and Seller together with confirmation of the proposed project plan for completing the Assignment.	Day 0
Initial planning meeting and presentation to Consenting Parties by the Buyer and Seller setting out the proposed transaction and the rationale for the proposed timeline. Keeping the Consenting Parties informed of progress and when their contribution to success of the project is expected. Responsibility for arranging this meeting lies with the Buyer and Seller with the active support of the operator. The statutory requirement imposed on Relevant Persons to inform the NSTA of certain 'relevant' external meetings can be found here .	Day 28
The Consenting Parties to have confirmed agreement with a final Project Plan which is then provided by the Buyer/Seller to the NSTA or provide a summary of why there is still disagreement on the Project Plan.	7 days after the initial planning meeting

* timelines should be flexible to accommodate foreseeable events e.g. conditions to the transaction that will take a certain time to fulfil or peak holiday periods impacting on JV Partner staff availability. Readers will note that the NSTA considers the key point upon which any project plan starts is the date that the Capability Pack is provided to Consenting Parties and not the date that any transaction is signed or announced.

A3. The NSTA expects most transactions to be capable of completion within 3 to 6 months of the issue of the Capability Pack and that the agreed project plan should reflect this timeframe. If it expected to extend beyond this timeframe, the NSTA should be informed and kept updated.


A5. The NSTA may review the Project Plan and seek written explanation for any key milestone dates that do not adhere to the timetable set out above or do not aim to achieve transaction completion within an overall period of 3-6 months.

A4. However, as stated at paragraph 8(5) of the Industry Code of Practice on Access to Upstream Oil and Gas Infrastructure on the UK Continental Shelf⁶:

“Equally, it is not acceptable that pursuing a rapid conclusion to negotiations should be used as a strategy to extract commercial advantage in circumstances where there are legitimate issues that require further research, investigation, resolution or negotiation.”

⁶ <https://oeuk.org.uk/wp-content/uploads/2022/10/Infrastructure-code-of-practice-2017.pdf>

Annex 2: Response coversheet

 North Sea Transition Authority													
To: NSTA Transactions Consultation													
<p>YOUR DETAILS</p> <p>Name:</p> <p>Company/Organisation:</p> <p>Position:</p> <p>E-mail address:</p> <p>Address:</p> <p>Representing:</p>													
<p>CONFIDENTIALITY</p> <p>Please tick below if you consider any part of your response is confidential, giving your reasons why:</p> <table data-bbox="204 1081 1085 1310"> <tr> <td>Nothing</td> <td><input type="checkbox"/></td> <td>Name/contact details/position</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Whole response</td> <td><input type="checkbox"/></td> <td>Company/organisation</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Part of the response</td> <td><input type="checkbox"/></td> <td></td> <td></td> </tr> </table> <p>If there is no separate annex, which parts?</p>		Nothing	<input type="checkbox"/>	Name/contact details/position	<input type="checkbox"/>	Whole response	<input type="checkbox"/>	Company/organisation	<input type="checkbox"/>	Part of the response	<input type="checkbox"/>		
Nothing	<input type="checkbox"/>	Name/contact details/position	<input type="checkbox"/>										
Whole response	<input type="checkbox"/>	Company/organisation	<input type="checkbox"/>										
Part of the response	<input type="checkbox"/>												
<p>If you want any part of your response, your name or your organisation to be kept confidential, can the NSTA still publish a reference to the contents of your response including (for any confidential parts) a general summary that does not disclose the specific information or enable you to be identified?</p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/></p>													
<p>DECLARATION</p> <p>I confirm that the correspondence supplied with this coversheet is a formal consultation response that the NSTA can publish, except as indicated above.</p> <p>However, in supplying this response, I understand that the NSTA may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations.</p> <p>If I have sent my response by email, the NSTA can disregard any standard e-mail text about not disclosing email contents and attachments.</p> <p>Name:</p> <p>Signed (if hard copy): _____</p>													



North Sea Transition Authority

Copyright © North Sea Transition Authority 2023

The North Sea Transition Authority is the business name for the Oil & Gas Authority, a limited company registered in England and Wales with registered number 09666504 and VAT registered number 249433979. Our registered office is at Sanctuary Buildings, 20 Great Smith Street, London, United Kingdom, SW1P 3BT.

www.nstauthority.co.uk