



North Sea
Transition
Authority

Response to the consultation on proposal to issue NSTA Guidance on the conduct of licence assignments

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General information

Purpose of this consultation

This document sets out the North Sea Transition Authority (“**NSTA’s**”) response to the consultation on proposed NSTA Guidance on the conduct of licence assignments¹.

Issued: **8 October 2024**

Territorial extent: United Kingdom and United Kingdom Continental Shelf (“**UKCS**”)

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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:

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

Introduction and background

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 supports 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, where possible, the number of M&A transactions that are hampered with delays or reach an avoidable 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 commercial/industry activity in the UK. To address these problems, the Guidance seeks to support, and provide confidence to, current licensees and potential investors with respect to assignment transactions.
3. This document summarises the NSTA response to the consultation proposing to issue NSTA Guidance on the conduct of licence assignments².
4. The consultation commenced on 28 March 2023 and closed on 23 May 2023. The consultation sought views from licensees, infrastructure owners and those seeking to access the UKCS on the proposed Guidance, and the principles to be followed when seeking to acquire and dispose of licence interests in the UKCS. In particular, the NSTA sought views on whether the proposed Guidance achieved the balance between existing and future UKCS participants' exposure to future costs/commitments and participants' ability to enter and exit the UKCS; the expectations on parties to a transaction; required financial and technical capability; timelines; project plans; and capability packs.
5. Eight responses to the consultation were received, which the NSTA welcomed. The NSTA's view of the responses is that they confirm the necessity of the Guidance and they have helped to clarify and frame the issue. Any changes are explained here.

² NSTA – MA consultation (nstaauthority.co.uk)

6. The Guidance has been updated following the consultation. In particular, additions and changes have been made to clarify:
 - a. The NSTA's intention in creating the Guidance.
 - b. That the Guidance is independent from other industry codes of practice and sets out the NSTA expectations that Relevant Persons behave in a collaborative and responsible manner.
 - c. That the Guidance does not concern the change of control of licensees³.
 - d. The proportionate aspect of application of the Guidance depending upon the complexity of the transaction.
 - e. The NSTA's consideration of commercially sensitive information.
 - f. The NSTA's position on requiring security.
 - g. When and how parties should update the NSTA on the transaction.
 - h. The onus on respective parties to the transaction.
 - i. Explaining who is a "Consenting Party".
 - j. That the transacting parties are obliged to provide the NSTA with the Project Plan.

³ Change of control of licences have been subject to a recent legislative change.

Summary of responses received

7. A total of eight responses were received from UKCS licence holders and trade associations. A full list of respondents is provided at Annex 1. Of the eight responses received, three were essentially supportive of the Guidance, two did not consider the Guidance to be necessary and the remaining three responses provided improvements on how the Guidance would benefit licence assignment transactions.
8. The NSTA has considered all the views provided. The NSTA considers that the Guidance adds value as it should improve the speed and efficacy of licence assignments. The Guidance achieves an appropriate balance between the benefits achieved by a liquid market for the ownership of licence interests whilst protecting the rights and interests of existing participants in the UKCS who wish to maintain their current holdings. It also confirms the NSTA expectations in relation to such transactions.

NSTA response to the views expressed

9. The consultation asked eight questions concerning proposed Guidance on licence assignments, ranging from whether any guidance should be issued to the content of the Guidance, including the contents of Project Plans and proposed timelines. Set out below is a summary of the responses received and the NSTA's settled position.

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

Summary of responses received

10. The respondents were split on the need to issue the Guidance, with the majority of respondents either supportive or neutral. Some felt that a single document issued by the regulator would be helpful. Some respondents were concerned about duplication with industry codes of practice. Other respondents considered that the proposed Guidance would go beyond the existing industry codes of practice in setting expectations, which provide clarity but also potentially could result in the need to comply with further requirements.

NSTA response

11. The NSTA considers that the Guidance differentiates itself from other industry codes of practice by providing greater clarity on the NSTA's expectations. An example of this relates to Project Plans and capability packs. The Guidance sets out the NSTA's expectations as the regulator,

which goes beyond industry codes of practice. The NSTA considers that the introduction of this Guidance will assist with engagement with industry and clarify when NSTA expectations may not be met.

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?

Summary of responses received

12. Respondents were divided with no clear majority on whether the proposed Guidance achieved the balance between existing and future UKCS participants' exposure to future costs/commitments and participants' ability to enter and exit the UKCS. Some respondents welcomed the proposed Guidance as a means of acknowledging that UKCS participants are evolving from large and well-established companies towards smaller companies with no track record in the UKCS, and/or backed with different funding structures. Some respondents were concerned that participants that are looking to enter the UKCS are being given a preferential position compared to existing UKCS participants, and that the proposed Guidance appears to be weighted towards a presumption that all proposed transactions should complete.

NSTA response

13. One of the driving factors behind the Guidance has been acknowledgment that the UKCS participants have changed. The NSTA acknowledges the challenges this may bring and it is also aware that these participants bring new capital, new ideas and new vigour to the UKCS. The purpose of the Guidance is to balance the challenges of participants in the UKCS whilst promoting innovation, collaboration and good governance. The NSTA considers this balance can be met – as set out in the Guidance – through collaborative and responsible behaviour.
14. The NSTA appreciates that there may be legitimate reasons for transactions to not complete and considers that a Consenting Party might have good reason to withhold its consent. There is no weighted presumption that all proposed transactions should complete or that all will do so in the same timescale. The Guidance requires there to be a legitimate reason for a party to withhold consent.

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.

Summary of responses received

15. The respondents were generally supportive of the principles set out in Chapter 3 of the proposed Guidance – Expectations on the Buyer and Seller. Some respondents were concerned that the proposed Guidance was disproportionately onerous for the parties that have a limited contractual

connection with the transaction. A general theme raised was that respondents were keen to understand the discretion that the Guidance would afford them during transactions.

NSTA response

16. The NSTA supports a proportionate view regarding who should be considered as a Consenting Party depending upon the complexity of the transaction, and this has been reflected in the Guidance.
17. The NSTA is keen to emphasise that, where possible, it does not expect to become involved in transactions which are progressing in line with the Strategy and the onus for a responsible and collaborative transaction remains on the parties. In line with this, the NSTA considers that:
 - a. the Buyer(s) and Seller(s) have discretion to determine who is “relevant” depending on the circumstances of the transaction.
 - b. Planning for the timely completion of an Assignment and then implementing that plan is the joint responsibility of the Buyer and Seller as they are best placed to understand any complexities and interdependencies of the transactional chain.
 - c. Where a Consenting Party identifies significant issues with the Assignment, the Buyer and Seller should propose suitable and reasonable terms, proportionate to the circumstances, to secure the Consenting Party’s consent.
 - d. It is up to parties’ discretion when to update the NSTA. However, as a guide, an update to the NSTA is likely to be

appropriate when relevant milestones in the project plan are achieved.

These changes have been reflected in the revisions to Chapter 3 of the Guidance.

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.

Summary of responses received

18. Responses to this question indicated a slim majority of full or partial support. Some respondents were concerned that additional obligations may be placed on parties, which may go beyond the existing contractual requirements. Other respondents sought clarity on steps which can be taken if there is a disagreement between parties, and whether the proposed Guidance endorses the linking of transactions (where, for example, the completion of a transaction is wholly dependent upon the completion of a completely independent transaction).

NSTA response

19. The Guidance acknowledges some parties may require further information, and if this is required, the NSTA's expectation is that this ought to be provided in good time. The NSTA considers this part of the Guidance should help all parties to act in a cooperative and transparent manner.

20. The NSTA has taken onboard that clarity is needed on steps which can be taken if there is a disagreement between parties and has updated paragraph 4.4 of the Guidance to

reflect this. The NSTA considers that the Guidance makes clear that withholding consent with the intention to remedy an unconnected commercial matter is likely to fall foul of the NSTA's stewardship expectations and the Strategy.

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.

Summary of responses received

21. The respondents were generally supportive of the principles set out in Chapter 5 of the proposed Guidance – Financial and Technical Capability - though some were concerned that the proposed Guidance imposed a principle of equal treatment which might increase transaction costs and dilute the financial safeguards available to Co-venturers. Respondents sought clarity on whether the proposed Guidance requires a field-wide Decommissioning Security Agreement (“**DSA**”), rather than specific security, and if a field-wide DSA is required, then when they would be required to enter into such a DSA.

NSTA response

22. The NSTA is keen to emphasise that the Guidance does not require equal treatment between current and prospective Joint Venture partners. Where different conditions apply to different parties (or potential parties) in the same Joint Venture, the Guidance encourages an explanation be provided to the impacted parties to limit potential future disputes.
23. The NSTA notes the clarity sought on whether the Guidance requires a field-wide DSA, rather than specific security. The NSTA has set out its preferred position that a field-wide DSA is in place, rather than unilateral requirements being imposed on a party. However, the NSTA notes that this preference may not always be possible. The NSTA expects, however, that the parties will have made a concerted effort to put a field-wide DSA in place as the first step, and where one has not been put in place, explain why not.
24. The NSTA notes the clarity sought on when to enter into a DSA. As reflected in the Guidance, the NSTA considers it preferable that a relevant licensee and the Buyer collaborate to have a DSA in place as soon as possible.

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.

Summary of responses received

25. The respondents were generally supportive of what the proposed Guidance states should be in the Capability Pack. However, many respondents were concerned that parties should not be obliged to disclose any sensitive financial information, including the terms of such funding to any third party.

NSTA response

26. The NSTA understands that what can be shared with Consenting Parties might be limited due to reasons of commercial sensitivity. However, as set out in paragraph 6.8.1.5 of the Guidance, the NSTA would like to remind parties that withholding information can lead to transactions being delayed in circumstances where greater transparency might expedite transactions or result in unforeseen circumstances such as the demand by co-venturers of greater security to cover the unknown risk. Consequently, the NSTA encourages a proportionate approach to limiting the sharing of documents due to commercial sensitivity.

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.

Summary of responses received

27. The respondents were generally supportive of the proposed timeline for the Project Plan. Respondents were supportive that the timelines would be best prepared in a collaborative manner with input from the Consenting Parties for a proportionate timeline commensurate with the complexity of the transaction. Some respondents were concerned that the Project Plan is too onerous an obligation for simpler transactions. Respondents requested clarity whether the NSTA “may” or “will” review the Project Plan.

NSTA response

28. The NSTA appreciates that all transactions are unique and vary in their complexity. Consequently, the NSTA considers that the complexity of the project plan is likely to be proportionate to the complexity of the transaction. This should ensure that the Project Plan is not too onerous for more straightforward transactions.
29. The NSTA notes the request for clarity whether it “may” or “will” review the Project Plan. The NSTA considers that providing it with the Project Plan will allow the NSTA to track transaction progress. In turn, this will allow the NSTA to assist parties where required.

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

Summary of responses received

30. The only additional comment not already addressed related to a request for clarification on whether the proposed Guidance related to licence assignments for reasons other than a transaction between a buyer and seller of licence interests.

NSTA response

31. We confirm the Guidance applies to licence assignments in the context of transactions involving the buying and selling of licence interests, not change of control.

Conclusion and next steps

32. The NSTA has amended the proposed Guidance following an evaluation of the responses received during the consultation period. The NSTA has published the Guidance alongside this document. The Guidance will take effect from the date of publication.
33. The NSTA further intends to use this Guidance, where applicable, for the purpose of: a. assessing compliance with the Strategy; and b. 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.

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

Regulatory Impact Assessment

34. The approach sets out the information that parties are expected to provide and required conduct during transactions. 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.

Annex 1: List of organisations responding to the consultation

List of respondents to the consultation on the proposal to issue NSTA Guidance on the conduct of licence assignments:

UKCS Participants	Trade Associations
Esso Exploration and Production UK Limited	Offshore Energies UK
TAQA Bratani Limited	LOGIC
bp	
TotalEnergies E&P UK Limited	
Harbour Energy	
NEO Energy	



North Sea Transition Authority

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