



North Sea
Transition
Authority

Guidance on the conduct of licence assignments

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Published by the North Sea Transition Authority

1. Scope and purpose of this guidance

- 1.1 This guidance (the “**Guidance**”) is intended to minimise the number of merger & acquisition (“**M&A**”) transactions that are hampered with delays or reach an impasse. Such delays can 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 activity in the UK. To address these problems, the Guidance seeks to support, and provide confidence to, current licensees and potential investors during transactions.
- 1.2 The 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.
- 1.3 For the purpose of this Guidance, an assignment (“**Assignment**” or “**Assignments**” as the context requires) is a proposed transaction which is covered by the Model Clause titled “*Restrictions on assignment, etc.*” and, as such, requires the NSTA’s written consent prior to completion. Specifically, this applies where a company (the “**Buyer**”) intends to acquire (or increase) a beneficial interest pursuant to an extant licence from an existing licensee (the “**Seller**”). The Guidance applies irrespective of whether the Assignment is between companies within the same corporate group structure or between separate corporate groups. This Guidance does not concern the change of control of licensees.
- 1.4 This Guidance has been developed following consultation with industry.

¹ The process for change of control assignments are referenced [here](#).

1.5 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**”). In determining who is considered a Consenting Party, a proportionate approach will need to be taken.
- C. **Financial and Technical Capability** – sets out principles regarding the financial and technical requirements that should reasonably be expected for a Consenting Party to consent to an Assignment.

1.6 Where the consent of a third party, e.g. a Consenting Party which is not a Co-venturer, is required to complete the Assignment, the NSTA³ 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. The Guidance does not impact on any contractual rights between parties, but parties are encouraged to have regard to the Guidance throughout the Assignment process. Where the NSTA departs from the approach set out in this Guidance, the NSTA will endeavour to explain this in writing to the Relevant Persons.

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. The NSTA aims to make any assessment in a timely manner, and similarly, the NSTA expects industry to act expeditiously in accordance with the Guidance.

1.10 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

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

³ The North Sea Transition Authority (“**NSTA**”) is the business name of the Oil and Gas Authority (“**OGA**”). References to the NSTA in this document should be read as the OGA and vice versa.

ability to meet its commitments. Third parties will need to carry out their own assessments and due diligence regarding such transactions.

- 1.11 This Guidance will be kept under review and be amended as appropriate in the light of further experience and developing law and practice, and any change to the NSTA's powers and responsibilities.
- 1.12 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 the closing of the transaction in a way that is as expedient and collaborative as that set out in this Guidance. They should also be prepared to write to the NSTA to explain how their approach achieves this with supporting evidence where applicable.
- 1.13 Where a Relevant Person is the subject of an investigation for a suspected breach of the OGA Strategy⁴ ("the Strategy") due to their conduct during an Assignment, the NSTA will usually take into consideration (among other things) the factors set out in this Guidance when assessing that conduct.
- 1.14 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 Persons. 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:
 - 1.14.1 an enforcement notice
 - 1.14.2 a financial penalty notice
 - 1.14.3 a revocation notice
 - 1.14.4 an operator removal notice
- 1.15 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.
- 1.16 Further information can be found on the NSTA's Sanction process [here](#).
- 1.17 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.
- 1.18 Any queries to the NSTA with regard to this guidance should be directed to the Licensing team at transactionsconsultation@nstaauthority.co.uk

⁴ The OGA Strategy (nstaauthority.co.uk)

2. Background

- 2.1 The acquisition and disposal of licence interests in the UKCS 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. The purpose of this Guidance is to give confidence around the transaction process and the time taken for transactions to complete. M&A processes are complex and the Guidance will be helpful to Operators by providing a simple framework on how to get processes done efficiently.
- 2.2 Efficient M&A activity can ensure 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.
- 2.3 In preparing this Guidance, the NSTA has had 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 UKCS⁵. Delays to Assignments can discourage future investment in the UKCS and harm public investor confidence.
- 2.4. The NSTA recognises that a transaction may be delayed for legitimate reasons and that a Consenting Party might have good reason to withhold its consent. Nevertheless, the NSTA considers that there is a real risk that Assignments may be delayed or threatened because of the time taken to obtain the consent required from the relevant Consenting Party to allow the Assignment to proceed.
- 2.5 This is despite the existence of best practice guidance published by Offshore Energies UK (“**OEUK**”), including OEUK’s Negotiations Best Practice (2017)⁶ and Transactions Best Practice (2019) which set out industry-led best practice guidance on negotiating and completing transactions⁷. This Guidance is independent from other industry guidance and represents the NSTA’s expectations that Relevant Persons behave in a collaborative and responsible manner.

⁵ See s. 8 Energy Act 2016

⁶ <http://oeuk.org.uk/product/negotiations-best-practice/>

⁷ <https://oeuk.org.uk/product/transactions-best-practice-technical-notes/>

2.6 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:

2.6.1 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

2.6.2 Investors have general confidence in the ability of Co-venturers' to meet their relevant licence commitments.

2.7. Achieving this balance increases the confidence of current and prospective investors in the UKCS. Increasing the speed and efficiency of transactions can reduce costs, free up Relevant Persons to conduct operations and provide further investment opportunities to meet the Central Obligation.

3. Expectations of 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 Strategy⁸. 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 as they are best placed to understand any complexities and interdependencies of the transactional chain.

3.3 Buyers and Sellers should normally apply the following principles, in a proportionate manner when preparing for an Assignment:

3.3.1 Agree a plan for the project (“**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 sets out what should be included in the Project Plan and a timetable for agreeing the Project Plan. The NSTA appreciates some information may be regarded as confidential or commercially sensitive, however sufficient transparency is likely to be required to ensure the plan is meaningful whilst recognising not all parties may need to be involved in this process.

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 appropriate Consenting Parties.

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

⁸ Paragraphs 21 and 24 of the Strategy

- 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 reasonable queries and information requests from the Consenting Parties.
- 3.3.2.6 At all times ensuring the proposed conditions (for securing consent) are consistent with the Strategy.
- 3.4 Once the Capability Pack can be shared with the Consenting Parties, where it would facilitate or expedite the transaction, 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 update the NSTA on the progress of the transaction. This is likely to be appropriate when relevant milestones in the Project Plan are achieved.

4. Expectations of 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 and the complexity of the transaction. Not all the principles set out below will apply to all Consenting Parties and we encourage a proportionate application of these to be followed.
- 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 where possible, 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 set out clearly their reasons for doing so.
- 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 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 where Co-venturers would be unable to meet the same requirements.

4.3.12 Where a Consenting Party seeks either to withhold consent or to impose a condition on a Buyer to obtain consent, they should consider whether such an action is fair and reasonable in the circumstances. The NSTA encourages responsible commercial behaviour which instils confidence in the basin.

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 impasse. Dispute remedy options including mediation could be considered.

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 below).
- 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 the majority of cases a field-wide decommissioning security agreement ("**DSA**") will exist.
 - 5.4.2 Where a field-wide DSA does not exist, there is an expectation that the parties will have made a concerted effort to put a field-wide DSA in place as the first step, and where this has not been possible, to explain why. It is preferable that relevant licensees and the Buyer collaborate to have a field-wide DSA in place as soon as possible, whether this is before or after the transaction completes, 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, a Co-venturer should be able to demonstrate its own financial resilience for security to an equivalent level to that which it seeks from 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, or demonstrate why such reciprocity is not required as a result of the Co-Venturer's financial position.
- 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 It is recommended that the Capability Pack should incorporate as a minimum:
- 6.7 *Corporate Information*
- 6.7.1 A corporate group structure, setting out the immediate and ultimate ownership of the Buyer.
- 6.7.2 The identity of all significant shareholders.

6.8 *Technical information*

6.8.1 In terms of technical capability, the Buyer should be able to demonstrate the following:

6.8.1.1 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.

6.8.1.2 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.

6.9 *Financial information*

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

6.9.1.1 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.

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

6.9.1.3 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 Buyer details of the bond should be provided rather than funding described simply as "intra-group facilities").

6.9.1.4 Financial information supporting the ongoing future ability of the Buyer 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 Buyer. 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 Buyer entity independent of the group for ongoing funding and mean that the liquidity of the Buyer could not be impacted by liquidity issues arising within the wider group.

6.9.1.5 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. The Buyer 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 relevant 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 ⁹
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, for example, large multi-asset or corporate transactions; 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.

⁹The NSTA considers Day 0 to be when the Buyer and Seller are ready to commence the Assignment with the Consenting Parties.

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 is expected to extend beyond this timeframe, the NSTA should be informed and kept updated (in addition to regular updates as set out in paragraph 3.7 above).

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 Shelf¹⁰:

“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.”

A5. The transacting parties are required to provide the NSTA with the Project Plan. The NSTA may 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.

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



North Sea Transition Authority

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