



North Sea Transition Authority

North Sea Transition Authority
Lower Ground Floor
Sanctuary Buildings
20 Great Smith Street
London SW1 3BT
www.nsta.co.uk

SANCTION NOTICE

To: **Perenco UK Limited**
Company Number: 04653066

Addresses: **8 Hanover Square**
London
W1S 1HQ

Date: **24 April 2024**

1. SANCTION

- 1.1. For the reasons given in this Sanction Notice, the North Sea Transition Authority (“NSTA”)¹ gives a Sanction Notice to Perenco UK Limited (“Perenco”) for its failure to comply with a petroleum-related requirement and a Financial Penalty Notice which imposes on Perenco a financial penalty of **£225,000** (two-hundred and twenty-five thousand pounds).

2. SUMMARY

- 2.1 Where there has been a failure to comply with a petroleum related requirement (“PRR”), the NSTA may issue a sanction under Chapter 5 of the Energy Act 2016 (“the 2016 Act”). A PRR includes a requirement imposed on a person by or under a provision of the 2016 Act which, by virtue of the provision, is sanctionable in accordance with Chapter 5.
- 2.2 Section 12A(1) of the Energy Act 1976 (“the 1976 Act”) states that the NSTA’s consent is required to flare or vent gas from a relevant oil processing facility or relevant gas processing facility.

¹ On 21 March 2022, the Oil & Gas Authority (“OGA”) changed its business name to the North Sea Transition Authority (“NSTA”). The abbreviation NSTA is used throughout this document to refer to both the NSTA now and when it was known as the OGA. The NSTA exercises powers under Chapter 5 of the Energy Act 2016 on behalf of the OGA. Any reference in this Notice to the exercise of power under Chapter 5 of the Energy Act 2016 refers to the NSTA exercising powers on behalf of the OGA.

- 2.3 Perenco is the operator and 100% owner of the Dimlington onshore gas processing facility (“**Dimlington**”). As Dimlington provides gas processing services, pursuant to section 90 of the Energy Act 2011, when read with Section 12A of the Energy Act 1976, it requires the consent of the NSTA to flare or vent.
- 2.4 On **17 December 2021**, Perenco was granted an annual vent consent for a specified quantity of natural gas to be released unignited into the atmosphere in connection with activities carried out at Dimlington. The consent for the period **1 January 2022 to 31 December 2022** (the “**Consent**”) allowed for 235 tonnes in total for that period. Perenco confirmed that the Consent was exceeded on **6 November 2022**. Perenco vented an extra 59 tonnes from **6 November 2022** until a new consent came into force on **14 December 2022** (“**the New Consent**”).
- 2.5 The NSTA considers that Perenco, without the necessary statutory consent, disposed of natural gas from a relevant gas processing facility by releasing it unignited into the atmosphere (otherwise known as venting), contrary to section 12A of the 1976 Act (“**the Breach**”).

3. BACKGROUND

- 3.1 In **December 2021**, Perenco contacted the NSTA to clarify the process for applying for venting consent in the context of the new system of “*having a restricted vent quantity*”. As part of its query, Perenco quoted the following section of the NSTA’s [Flare and Vent Guidance](#): “*Operators must inform the OGA as soon as it becomes clear that there is a risk of flaring or venting consent breach; this includes notifying the OGA of new risks of, or unexpected increases in, flaring or venting. Requests for consent variations must be submitted in sufficient time for the OGA to consider the relevant details and respond accordingly.*” Perenco also sought clarification on “*what timescale is sufficient or will this depend on the circumstances?*” In response, the NSTA confirmed that “[w]e expect operators to track their consents on a regular basis”, “*to monitor more frequently when actual quantities are approaching the consented amount*”, and that the NSTA should be informed “*about 2-4 weeks ahead of a projected exceedance*” (together, “**the December 2021 Correspondence**”).
- 3.2 On **30 September 2022**, Perenco applied to the NSTA for its 2023 vent consent.
- 3.3 On **4 November 2022**, the NSTA emailed Perenco stating, amongst other things, “*in relation to the existing 2022 consent, and given the small margin between gas vented to the end of August and the quantity given consent for the full year, please get in touch with us in good time if it appears that the consent may be exceeded.*”
- 3.4 At **09:15 on 24 November 2022**, Perenco informed the NSTA that “*we are going to exceed the vented amount consented at the end of this year. Please could you let us know how best to approach this, if a variation is required to our current [C]onsent and how to complete this.*” At **10:47 on 24 November 2022**, the NSTA emailed Perenco stating, amongst other things that “[w]ith regard to the existing 2022 consent, please let us know what increased quantity you are likely to need and supporting information as soon as possible. We may be able to revise the consent before there is an exceedance. If a consent is exceeded, the process

becomes more complicated and difficult for us all.” At **10:53 on 24 November 2022**, Perenco reported to the NSTA that it had already exceeded the Consent.

- 3.5 At **11:15 on 24 November 2022**, the NSTA informed Perenco that:

“Our Consents team will need to arrange a ‘Consent stewardship meeting’ (Teams call) with you to understand the reasons for the exceedance and the steps that are being taken to prevent a recurrence. We are unable to give retrospective consents for exceedances that have already occurred but would want to bring the terminal back into consent for the remainder of this year. Hence you will also need to estimate the increased quantity needed from now until the end of the year. We normally refer any consent exceedances to our Disputes & Sanctions team for their consideration but will explain this in the call.

We will be in touch to arrange a suitable time for a Consent stewardship meeting but in the interim, it would be helpful if you could prepare the information as indicated above.”

- 3.6 In early **December 2022** there was correspondence between Perenco and the NSTA to arrange the stewardship meeting. That meeting occurred on **13 December 2022**, in which Perenco confirmed that it “*had exceeded the annual vent consent in October 2022 due to gas compression issues throughout 2022. Freezing fog in early December caused the compressors to freeze up and an additional volume was also vented out with consent.*” At the same meeting, the NSTA also requested that Perenco submit an application “*with revised figures to cover until 31 December 2022.*” Perenco subsequently confirmed in a letter dated **18 August 2023** that the Consent was exceeded on **6 November 2022**.
- 3.7 On **19 December 2022**, the New Consent was issued for Dimlington for the period **14 December 2022 to 31 December 2022**. Perenco vented an extra 59 tonnes from **6 November 2022** until the New Consent commenced on **14 December 2022**.

Flare and Vent Consents

- 3.8 The introduction to the NSTA’s Flare and Vent Guidance provides the following description of the function of flaring and venting: “*Flaring and venting are controlled processes to dispose of gas, essential for emergency and safety purposes on oil and gas installations, and in situations where it may not be feasible for the gas to be used, exported or re-injected. Flaring is the ignition of gas, and venting is the release of unignited gas.*” The NSTA considers that the effective management of flare and vent consents is a vital indicator of good stewardship of fields and terminals by operators and licensees. The management of flare and vent consents is an important component of a stable well-regulated environment in which industry, investors and the public can have confidence.

4. LICENSEES

- 4.1 Perenco was the operator and 100% owner of the Dimlington terminal at the time of the exceedance.

5. FAILURE TO COMPLY

- 5.1. Under section 42 of the 2016 Act, the NSTA has the power to give a Sanction Notice where it considers that a person has failed to comply with a petroleum-related requirement which is imposed on it.
- 5.2. Section 12A of the 1976 Act specifies that the NSTA's consent is required for disposal of natural gas "*by flaring, or releasing it unignited into the atmosphere, from anything that for the purposes of section 82(1) of the Energy Act 2011 is a relevant oil processing facility or a relevant gas processing facility.*"
- 5.3. By carrying out "*gas processing operation[s]*", the Dimlington facility falls within the meaning of a "*gas processing facility*" as set out in section 90 of the Energy Act 2011 (and is therefore a gas processing facility for the purposes of section 82(1) of that same Act), noting in particular that Dimlington receives piped gas.
- 5.4. Section 12B of that 1976 Act provides that those requirements are to be treated for the purposes of Chapter 5 of the 2016 Act as petroleum related requirements.
- 5.5. The NSTA considers that Perenco disposed of natural gas from a relevant gas processing facility by releasing it unignited into the atmosphere without the necessary consent, contrary to section 12A of the 1976 Act. Perenco vented an extra 59 tonnes from **6 November 2022**, when the Consent was exceeded, until the New Consent commenced on **14 December 2022**.

Perenco's explanation of its actions

- 5.6. Perenco provided:
 - a. a response to the NSTA's Information Notice dated **18 August 2023**;
 - b. a response to the NSTA's Information Notice dated **19 October 2023**; and
 - c. representations in relation to the **December 2021 Correspondence**.
- 5.7. In these responses and representations, Perenco provided the following general explanations:
 - a. The Dimlington Terminal's Environmental Permit, issued by the Environment Agency ("EA"), set the onshore venting limit for Dimlington at 450 tonnes for 2022. The original NSTA Consent limit for 2022 for Dimlington was 235 tonnes, significantly below the EA limit. The actual year end vent total (excluding nitrogen) for Dimlington in 2022 was 307.6 tonnes, which is significantly below the amount specified in the New Consent and the EA consent limit. Perenco therefore considered that it was well within its agreed consent for 2023.
 - b. Following the exceedance during 2022, Perenco informed the NSTA and a meeting was held to review the Consent. The NSTA understood and accepted the reasons for

the requested increase and agreed to revise the Consent upward to 373 tonnes **on 13 December 2022**.

- c. Throughout 2022, Perenco faced unforeseen operational issues with its main gas compressor at Dimlington and has subsequently invested significantly to improve reliability.
 - d. 2022 was the first year that a consent for venting was introduced by the NSTA. Some allowance should be made to give operators time to make appropriate changes following the introduction of a new system of vent consents, and to understand expectations. This "*was a technical breach based on a misunderstanding in the first year of a new process.*" Perenco, independently of the requirements of the venting consent regime, had made significant improvements to its metering and compressor reliability since 2022, clarified individual responsibilities, and had also made changes to the way it collates and reports data.
 - e. There was a "*dislocation*" in Perenco's internal communications and senior management were unaware of the criticality of the situation.
- 5.8. Perenco provided the following explanations for not notifying the NSTA ahead of any potential exceedance:
- a. It did not make the NSTA aware of any potential exceedance when it had compressor issues because at the time it was actively working to resolve the issues it had with gas compressors, which were causing the increased venting, and hoped that no exceedance would occur.
 - b. It was not aware that the NSTA required prior notice of a potential exceedance.
 - c. It was the first year of the NSTA vent consents being in place and it was Perenco's understanding that the NSTA had not at that time advised on the process to follow should an exceedance be likely or indeed take place.
- 5.9. Perenco provided the following explanation for continuing to vent once it was aware of the exceedance:
- a. It did not stop venting immediately because it did not consider that it was safe to stop venting from Dimlington, or any gas terminal, whilst maintaining normal operations.
 - b. To stop all venting Perenco would have to shut down and depressurise the whole terminal and, as a consequence, the quantity of vented hydrocarbons for 2022 would be greater than the actual level vented in 2022.
 - c. During 2022, Perenco was asked by the NSTA and other government departments to produce as much gas as possible in the interests of energy security at a time of national crisis due to the war in Ukraine. Perenco referred to four documents to support its assertion:
 - i. The Business, Energy and Industrial Strategy ("BEIS") Policy Paper titled "*British Energy Security Strategy*", dated 7 April 2022;

- ii. The BEIS Secretary of State letter to industry titled “*Accelerating investment to protect Britain’s energy security*” dated 30 April 2022;
- iii. A letter from the NSTA Director of Operations to Perenco titled “*Accelerating investment to protect Britain’s energy security*” dated 28 June 2022; and
- iv. The NSTA 33rd Offshore Petroleum Licencing Round, launched in October 2022, highlighting the need for domestic security of oil and gas supply.

The NSTA’s consideration of Perenco’s explanations

- 5.10. Level of Venting: The requirement under section 12A of the 1976 Act to obtain the NSTA’s consent is separate from the controls administered by the Environment Agency. It is therefore not relevant to this case whether the volume of emissions outwith the NSTA’s consent were within the levels permitted by any consent issued by the Environment Agency.
- 5.11. When it was issued on **17 December 2021**, the NSTA’s Consent for Dimlington for the period **1 January 2022 to 31 December 2022** allowed for 235 tonnes of venting. It is the NSTA’s view that the onus is on licensees to provide accurate data and to request informed consent levels and ensure regulatory adherence.
- 5.12. On **13 December 2022**, in the stewardship meeting between the NSTA and Perenco, the NSTA requested Perenco submit an application “*with revised figures to cover until 31 December 2022.*” This resulted in the New Consent being issued to Perenco for Dimlington permitting a maximum of 80 tonnes of venting for the period **14 December 2022 to 31 December 2022**. Perenco assert that the NSTA “*agreed to revise the Consent upward to 373Te on 13 December 2022.*” However, the New Consent was issued to sit alongside the original Consent and refers to a figure of 80 tonnes, i.e. the NSTA did not revise the original Consent.
- 5.13. The issuance of the New Consent by the NSTA (which was intended to bring the facility back into compliance for the remainder of 2022) does not change the fact that Perenco still exceeded the original Consent of 235 tonnes, which, when issued, was intended to be sufficient for the period **1 January 2022 to 31 December 2022**.
- 5.14. Although it may be the case that the “*actual year end vent total (excluding nitrogen) for Dimlington in 2022 was 307.6Te*”, it remains that Perenco exceeded the levels provided for in the Consent and therefore vented without the necessary statutory consents in place. The original consent of 235 tonnes, based on the figures submitted by Perenco, was intended to be sufficient for the period **1 January 2022 to 31 December 2022**.
- 5.15. Perenco stated that it had understood that the issuance of the New Consent (to commence on **14 December 2022**) indicated that the NSTA “*accepted the reasons*” for the exceedance. However, neither the New Consent nor the minutes of the **13 December 2022** meeting state expressly or imply that the NSTA accepted the reasons given for the exceedance, nor has Perenco provided any evidence for its assertion. Notably, on **24 November 2022**, the NSTA told Perenco that “[w]e are unable to give retrospective consents for exceedances that have

already occurred but would want to bring the terminal back into consent for the remainder of this year. [...] We normally refer any consent exceedances to our Disputes & Sanctions team for their consideration but will explain this in the call."

- 5.16. Under the 1976 Act, operators are expected to obtain *ex ante* consent from the NSTA in respect of any venting and flaring to support their processing operations.
- 5.17. In light of the December 2021 Correspondence, the NSTA considers that Perenco's argument that the Breach occurred due to "*a misunderstanding in the first year of a new process*" is not credible.
- 5.18. Despite being aware that it was at risk of exceeding the Consent and of the requirement to notify the NSTA should there be a risk of exceeding its vent consent, Perenco failed to engage in sufficient time with the NSTA to obtain the consent necessary to support the regulatory compliant continuation of its processing operations. It is further noted that, in an email dated **4 November 2022**, the NSTA alerted Perenco to the risk of an exceedance and the need to contact the NSTA if it appeared the Consent would be exceeded.
- 5.19. Perenco responded to the NSTA's **4 November 2022** email on **24 November 2022** (14 working days later) stating that it was "*going to exceed the vented amount consented at the end of this year*". In fact, Perenco had already breached the Consent on **6 November 2022**, but apparently was not aware of this despite the presence of internal tracking systems.
- 5.20. While Perenco states that it had systems in place to track the daily volumes of gas it emitted, there appears to have been an absence of internal mechanisms and/or processes in place to ensure that any risks identified through this system were appropriately actioned, for example, by applying for the necessary statutory consents to support the continuation of its processing operations. Despite knowing that it was at risk of exceeding its Consent, Perenco appears to have taken a decision not to engage with the NSTA to avoid or mitigate breaching its regulatory obligations. The NSTA considers that this is indicative of a lack of appropriate senior management in both the monitoring of consented volumes and ensuring compliance with regulatory obligations.
- 5.21. Management of Consents: Perenco has stated that it was aware that venting required consent: "*Perenco began tracking venting hydrocarbons daily at the beginning of 2022 when the NSTA first began limiting venting by way of annual consenting amounts.*" Perenco has previously applied for and obtained the necessary statutory consent to support its processing operations. In 2021, the NSTA introduced changes to the way operators apply for planned venting across their processing operations. It has always been the case that operators must account for venting in its application for consent. It is not the case that 2022 was the first year that a consent for venting was introduced by the NSTA. The difference is that 2022 was the first time that the venting consent at Dimlington needed to be quantified. The NSTA considers that the December 2021 Correspondence demonstrates that Perenco understood this difference.

5.22. Further, the NSTA issued the [Flare and Vent Guidance](#) in June 2021,² which included, in pertinent part:

- a. *"It should be noted that a flare gas stream emitted without ignition (i.e. Cold Flaring) should be reported as vent";*
- b. *"Operators must inform the OGA as soon as it becomes clear that there is a risk of flaring or venting consent breach"; and*
- c. *"The OGA expects that operators will not exceed flare or vent consent levels. Breach of consent may result in sanction under the terms of the licence."*

That Guidance was shared and publicised on the NSTA website.³ Section 3 sets out that flaring and venting should be at the lowest possible levels in the circumstances. This represented a change in the guidance for Southern North Sea vent consents where a consent was in place but unquantified. This change was communicated to Industry as part of the Annual Consents Exercise 2022 ("ACE2022") launch presentation; in particular slide 10 which states: *"All vent consents are now quantified: new requirement for SNS operators to include quantities in their SNS consent requests, aligning with NCS and NNS."* NSTA records show that five Perenco representatives attended the ACE2022 launch presentation.

5.23. Safety: The 1976 Act recognises circumstances where it may be necessary to dispose of gas outside of consent in order to reduce or avoid the risk of injury to any person. However, this only applies where the risk could not reasonably have been foreseen in time to reduce or avoid it otherwise than by means of disposal and it was not reasonably practicable to obtain consent.

5.24. In its letter, dated **18 August 2023**, Perenco stated that it was aware prior to exceeding the Consent that it was approaching the consented amount; however, it made a decision not to inform the NSTA of this potential exceedance while it attempted to resolve issues with its gas compressors. It is clear from this that Perenco's decision to continue venting once it had exceeded its consent did not relate to unforeseen concerns over safety and, in any case, it was reasonably practicable to obtain further consent.

5.25. Energy Security: While the four documents referred to by Perenco (set out above at paragraph 5.9) make reference to the importance of energy security, there is no inference in the documents referenced that this should be done at the expense of, or in contravention of, licence or regulatory obligations. As a matter of good regulatory governance, the NSTA expects that all operators remain within their consents, should have the general mechanisms in place to identify where they may exceed such consents, and if they consider that they are at risk of or will exceed such consents, they should apply for an amendment to the consents *prior to* that exceedance.

² NSTA Flaring and venting guidance, June 2021.

³ Published on the NSTA website news section in June 2021: North Sea Transition Authority (NSTA): Flaring and Venting Guidance - 2021 - Publications - News & publications (nstauthority.co.uk). The NSTA Flaring and Venting Guidance was further referenced in the article "North Sea flaring cut by 19% last year, reaching a record low," on the NSTA website news section in March 2022: North Sea Transition Authority (NSTA): North Sea flaring cut by 19% last year, reaching record low - 2022 - News - News & publications (nstauthority.co.uk).

6. THE SANCTION WARNING NOTICE

- 6.1. A Sanction Warning Notice was issued to Perenco on **16 January 2024**, and Perenco was given the opportunity to provide representations on the matters contained therein, which it did on **9 February 2024**. The NSTA has considered those representations, and these are summarised as follows:

The exceedance was a technical breach

- 6.2. Perenco argues that the exceedance was "*due to an internal misunderstanding regarding how such an event would and should be dealt with*". Perenco goes on to explain that, in its view, the "*misunderstanding arose in part because 2022 was the first year that the NSTA had issued vent consents with a capped allowance*".
- 6.3. The NSTA considers that the correspondence referred to in paragraphs 3.1 and 3.3 demonstrate that Perenco was aware of the NSTA's published Flare and Vent Guidance and that Perenco understood the process to apply for its vent consent. Therefore, the NSTA does not consider that it is credible for Perenco to argue that it was mistaken or not aware of the NSTA's expectations with respect to how venting and flaring consents should be managed.

Safety is the inherent driver for venting at the Dimlington Terminal and the NSTA should further consider section 12A(3) of the Energy Act 1976

- 6.4. Perenco argues that "*the NSTA has not taken into proper account the fact that the Energy Act 1976 [...] permits the disposal of gas without consent pursuant to Section 12A(3)*".
- 6.5. The NSTA has carefully considered whether the provisions in section 12A(3) apply such that consent was not required.
- 6.6. The exemption in section 12A(3) only applies where any risk of injury to any person could not reasonably have been foreseen in time to reduce or avoid it other than by means of disposal and it was not reasonably practicable to obtain consent in time from the NSTA. For the reasons stated at paragraph 5.24, the NSTA does not consider that the exemption in section 12A(3) applies.
- 6.7. Perenco expressed a concern that the NSTA's Sanction Warning Notice inferred that Perenco is not concerned with safety. Perenco state that it "*adheres to the highest standards of safety as a responsible operator, as expressed in our corporate safety policy*". For the avoidance of doubt, no criticism is expressed or implied as to Perenco's corporate safety policy and approach.

The NSTA has not properly considered section 8(1) of the Energy Act 2016

- 6.8. Perenco argues that, in "*respect of Section 8(1) of the 2016 Act (matters to which the NSTA must have regard when exercising its functions), Perenco does not think that the NSTA has properly considered*:

(a) ‘the need for the United Kingdom to have a secure supply of energy’: if Perenco had shut down the terminal in order to stop the possibility of there being any further requirements for venting during any other unforeseen process events in the Relevant Period it would have failed to deliver 5.6 billion cubic feet of gas to the National Grid for use in homes, hospitals, factories, businesses, offices and other public infrastructure across the United Kingdom; and

(b) ‘the need to maintain a stable and predictable system of regulation which encourages investment in relevant activities’: in light of the introduction of a new administrative process for the application of the vent consent regime, it should be acknowledged that teething problems were likely following the roll out. Consequently, Perenco’s misunderstanding was an indication of the bedding down of new expectations”.

6.9. The NSTA considers that Perenco should have ensured that it had the appropriate statutory consents in place to support the continuation of its processing operations, not that Perenco should have shut-in the Dimlington facility. There were missed opportunities for Perenco to engage with the NSTA once it became apparent that it was approaching and would likely exceed the levels provided for in the Consent (see paragraph 5.20).

6.10. While the NSTA must, amongst other matters, have regard to “*the need for the United Kingdom to have a secure supply of energy*”, this does not entitle operators to ignore regulatory requirements in favour of their processing operations.

6.11. Taking enforcement action in respect of a failure to hold the necessary statutory consents helps to maintain a stable and predictable system of regulation by demonstrating how the NSTA is acting to ensure that regulatory obligations are complied with.

6.12. The NSTA took appropriate steps to ensure that operators were aware of any changes to the consents application process, including with a presentation to industry that Perenco attended.

6.13. Further, the Flare and Vent Guidance makes clear what is needed for operators to comply with the regulatory regime in place.

Perenco’s misunderstanding of the NSTA’s expectations was not wilful or conscious disregard

6.14. Perenco submits that at no time did it or its senior management team “*seek to benefit by failing to comply; and did not consciously choose not to engage with the NSTA. Instead, Perenco simply misunderstood what was required*”.

6.15. The NSTA considers that the **December 2021** Correspondence demonstrates that Perenco was aware of the NSTA’s expectations, including when to engage with the NSTA where it became apparent that it was at risk of exceeding its consent.

- 6.16. The NSTA notes that there were several Perenco employees copied into the **December 2021 Correspondence**; however, the learnings from that correspondence were not embedded into the business.
- 6.17. On **4 November 2022** the NSTA alerted Perenco to the risk of an exceedance and highlighted that it needed to contact the NSTA if it appeared the Consent would be exceeded.
- 6.18. Under the 1976 Act, operators are expected to obtain *ex ante* consent from the NSTA to support their processing operations. Therefore, it is not credible for Perenco to argue that it was mistaken as to the need to have statutory consent in place to release natural gas as part of its processing operations or that it could retrospectively apply for consent in relation to gas that it had already released into the atmosphere, particularly in view of the December 2021 Correspondence. It is evident from Perenco's **18 August 2023** letter that it "*was aware prior to exceeding the consent that it was approaching the consented amount*". It is also evident from this **18 August 2023** letter that, despite identifying that it was "*approaching the consented amount*", Perenco took a conscious decision not to engage with the NSTA to ensure that it had the necessary consent in place to support the continuation of its processing operations.

Perenco has taken substantive steps to reduce the risk of such an exceedance in the future

- 6.19. Perenco submits that it has made changes to ensure this kind of technical breach should not occur again. It is encouraging that Perenco has taken steps to mitigate the risk of future non-compliance, this does not absolve Perenco of the Breach.

The level of the proposed fine is disproportionate to the magnitude of the offence

- 6.20. Perenco "*considers that the minded-to fine ... is wholly disproportionate to the magnitude of the offence, which was a technical breach based on a misunderstanding in the first year of a new process, and the exceedance occurred for unforeseen safety and operational purposes*". Perenco also states that there "*was no conscious disregard or internal direction or decision to ignore the regulations. Perenco is fully committed to controlling and reducing venting. Perenco corrected its error immediately on realising its mistake; instigating further material changes to assist with future compliance*".
- 6.21. In its submissions, Perenco compares this matter to previous Sanction Notices that the NSTA has issued regarding breaches of flare consents and questions the level of the proposed fine imposed on it in view of this.
- 6.22. The central objective of the financial penalty in this Sanction Notice is deterrence, with the penalty level being set at a sufficient level to reflect this and the seriousness of the breach. Further, the correspondence between the NSTA and Perenco in the lead up to the Breach and subsequently as part of the investigation does not support Perenco's proposition that this was just a "*technical breach based on a misunderstanding*" or that it occurred in the context of "*unforeseen safety and operational purposes*". It is not credible for Perenco to state that it was unaware of the need to obtain consent to release gas as part of its processing operations or the importance the NSTA places on the need for operators to properly manage their statutory vent consents.

- 6.23. In view of this, and the NSTA's consideration of factors in its Financial Penalty Guidance, the NSTA remains of the view that **£225,000** is a proportionate sanction in this matter. While the volume by which Perenco had exceeded its consent was significant, volume is not the determining factor in the level of any penalty.

7. THE SANCTION IMPOSED

- 7.1. By section 12B(2) of the 1976 Act, the only available penalty for this type of breach is a financial penalty.
- 7.2. The NSTA issues this Sanction Notice requiring Perenco to pay a financial penalty of **£225,000.00** ("the Financial Penalty"), within 30-days of the date of this Sanction Notice, to the NSTA in respect of the Breach, which will be paid to HM Treasury. In arriving at the level of the Financial Penalty, the NSTA has among other things had regard to those matters listed at section 8 of the 2016 Act, in particular the need to maintain a stable and predictable system of regulation which encourages investment in relevant activities, which appears especially relevant here.
- 7.3. The central objective of the financial penalty in this Sanction Notice is deterrence, with the penalty level being set at a sufficient level to reflect this and the seriousness of the breach. Taking enforcement action in respect of a failure to hold the necessary statutory venting consent helps to maintain a stable and predictable system of regulation by demonstrating how the NSTA is acting to ensure that regulatory obligations are complied with.

Consideration of the NSTA's Financial Penalty Guidance

- 7.4. In deciding the level of financial penalty to impose in respect of the Breach, the NSTA has had regard to its Financial Penalty Guidance.⁴
- 7.5. The NSTA has considered carefully the aims set out in paragraph 16 of the Financial Penalty guidance, which are that any financial penalty determined should be among other things:
 - a. Effective in addressing the underlying cause for the failure to comply;
 - b. Dissuasive of future failure to comply, either by the person or, further to publication of the Sanction Notice, other persons in similar circumstances; and
 - c. Proportionate to the significance of the failure in the context of the petroleum-related requirement and the impact on the relevant persons.
- 7.6. The NSTA considers that it is appropriate to impose a sanction in respect of the Breach and that a financial penalty set at **£225,000.00** sends a strong message to Perenco and other persons in similar circumstances that the NSTA takes compliance with the need to have

⁴ [NSTA Financial Penalty Guidance, 4 November 2022](#). By section 45 of the Energy Act 2016, the NSTA must issue guidance as to the matters to which it will have regard when determining the amount of the financial penalty to be imposed by a financial penalty notice.

appropriate venting consents in place seriously and to deter such behaviours in the future. In that regard, the NSTA considers that the level of the Financial Penalty is proportionate and effective in addressing the underlying cause of the Breach and dissuasive of future failures to comply with regulatory obligations.

- 7.7. The NSTA considers that, a financial penalty of **£225,000.00** is proportionate to the seriousness of the Breach, particularly noting in NSTA's consideration of the matters in paragraph 17 the NSTA's Financial Penalty Guidance, as follows.

The extent to which Perenco may have sought to benefit from the failure to comply

- 7.8. Perenco knew that it required the NSTA's consent to release natural gas as part of its processing operations. Despite knowing that it was about to exceed the Consent, Perenco made a decision to delay its engagement with the NSTA to obtain the consent necessary to support the continuation of its processing operations. Once Perenco had exceeded the Consent, it continued its processing operations (and in doing so, the release of natural gas from its processing facility) despite not having the necessary consent in place. To that end, Perenco prioritised the continuation of its processing operations above its compliance with regulatory requirements and in doing so sought to benefit from the failure to comply.

Whether Perenco gained as a consequence of the failure to comply

- 7.9. The Dimlington facility was able to continue processing operations despite not having the required statutory consent to vent. In this respect, the NSTA considers that Perenco gained as a consequence of its failure to comply.

The severity of failure to comply

- 7.10. The relevant petroleum-related requirement in this case is the requirement in section 12A of the 1976 Act to have the consent of the NSTA for natural gas to be disposed of by releasing it unignited into the atmosphere in connection with a gas processing facility operated by Perenco. Perenco has confirmed that, between **6 November 2022** and **14 November 2022** it vented 59 tonnes. This is significant in the context of the relevant petroleum related requirement.
- 7.11. The NSTA has repeatedly signalled to the UK upstream oil and gas industry that compliance with its regulatory obligations is vitally important to sustaining the industry's social licence to operate in the UKCS.⁵ A failure to comply with a vent consent has the potential to undermine public confidence in the ability of the industry to operate within prescribed limits which, in turn, impacts and/or affects the industry's social licence to operate, may undermine the confidence of investors, and potentially undermines the authority of the regulator. In particular, the NSTA notes the factors contained in section 8(1) of the 2016 Act, that it must have regard to when exercising its functions.

The degree of harm caused, or increased costs incurred by the failure to comply

⁵ See: Open letter from the NSTA to licensees and infrastructure owners to outline the next stage of our regulatory approach, 4 June 2019; and the NSTA's Thematic Review into Industry Compliance with Regulatory Obligations, 29 October 2020.

7.12. Perenco's failure to comply undermines trust and confidence in Perenco's asset management and its senior management oversight of its regulatory obligations. While Perenco has explained that the exceedance was caused by issues it had with gas compressors, the NSTA considers that, had Perenco engaged with the NSTA earlier, the company could have been brought back into regulatory compliance. The exceedance resulted in an increase in unconsented emissions. It also raises questions as to Perenco's attention and investment in regulatory compliance at a senior level.

Whether there are any relevant industry Codes of Practice

7.13. There are no relevant industry codes of practice governing flaring and venting.

The duration of the contravention

7.14. Perenco confirmed that the Consent was breached on **6 November 2022**. Perenco vented outwith consent from **6 November 2022 to 13 December 2022** (inclusive).

Mitigating circumstances

7.15. Since the exceedance, Perenco has informed the NSTA that it has improved reliability with its main gas compressor, its metering and compressor reliability since 2022, clarifying individual responsibilities, and the way it collects data.

7.16. Perenco has co-operated with the NSTA's investigation by responding to the Information Notices put to it and has not had any previous conduct which was considered by the NSTA to breach a petroleum related requirement.

7.17. The NSTA has taken into consideration the above circumstances in setting the financial penalty, which would have been more had these not been reflected.

Aggravating circumstances

7.18. It was a serious oversight by senior management not to ensure that there were appropriate internal mechanisms/processes to prevent the failure to comply and the NSTA has placed substantial weight on this failure in setting the level of the fine.

8. PUBLICATION OF THE SANCTION NOTICE

8.1. Pursuant to section 53 of the 2016 Act, the NSTA may publish details of any Sanction Notice given in accordance Chapter 5 of the 2016 Act.