

THE MAXIMISING ECONOMIC RECOVERY STRATEGY FOR THE UK

**Presented to Parliament pursuant to Section 9G of the Petroleum Act 1998 as
amended by the Infrastructure Act 2015**

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INTRODUCTION

In drawing up the obligations imposed by this Strategy, regard has been had to the following high-level principles:

- a. all stakeholders should be obliged to maximise the expected net value of economically recoverable petroleum from relevant UK waters, not the volume expected to be produced;
- b. compliance with the Strategy is intended to lead to investment and operational activities that, on an expected basis, add net value overall to the UK;
- c. compliance with the Strategy may oblige individual companies to allocate value between them, matching risk to reward. However, while the net result should deliver greater value overall, it will not be the case that all companies will always be individually better off;
- d. compliance with the Strategy will not lead to any individual company investing in a project or operating existing assets where there is not a satisfactory expected commercial return on that investment or activity. Such a return *does not* necessarily mean a return commensurate with the overall corporate return on their portfolio of investment, e.g. a low risk investment could give low returns; and
- e. in determining whether something is consistent with the principal objective the OGA will need to balance the benefit of economic recovery of petroleum with the need to maintain the confidence of new and current investors to invest in exploration and production of petroleum from relevant UK waters, taking into account market conditions at the time of making its determination.

THE MER UK STRATEGY

1. This Strategy is drafted, in accordance with section 9A(2) of the Petroleum Act 1998, to enable the principal objective established in that section to be met. To that end it sets out a Central Obligation, binding on relevant persons (including the OGA). In order to secure the effective delivery of the Central Obligation, this Strategy also sets out Supporting Obligations and Required Actions and Behaviours, which are as binding as the Central Obligation. The Supporting Obligations clarify how the Central Obligation applies in certain circumstances and the Required Actions and Behaviours are obligations which apply to relevant persons when carrying out the Central and Supporting Obligations. The Strategy also contains a number of Safeguards and the Central Obligation, Supporting Obligations and Required Actions and Behaviours must be read subject to those safeguards.

SAFEGUARDS

2. No obligation imposed by or under this Strategy permits or requires any conduct which would otherwise be prohibited by or under:
 - a. any legislation, including legislation relating to competition law, health, safety or environmental protection; or
 - b. the common law, including the OGA's duty to act reasonably.
3. No obligation imposed by or under this Strategy requires any person to make an investment or fund activity (including existing activities) where they will not make a satisfactory expected commercial return on that investment or activity.
4. This paragraph applies where this Strategy (read in accordance with paragraphs 2, 3, 5 and 6) requires a relevant person to make an investment or fund activity and that person intends either:
 - a. to delay that investment or funding; or
 - b. to not undertake that investment or funding,because it will not produce a return which they consider to be sufficiently high. Where this paragraph applies, the OGA must discuss the situation with that relevant person before taking any enforcement action in relation to that decision.
5. Where this Strategy requires a relevant person (A) to invest in infrastructure or fund activity wholly or partly for the benefit of another relevant person or persons (B):
 - a. A may require from B¹ a contribution to the costs associated with installing and operating the infrastructure or carrying out the activity; but
 - b. that contribution shall not exceed one that is fair and reasonable in all of the circumstances, taking into account the importance of realising B's assets to meeting the Central Obligation.
6. No obligation imposed by or under this Strategy requires any conduct (including investment or funding activity) where the benefits to the UK deriving from that conduct are outweighed by the damage to the confidence of investors in oil and gas exploration and production projects in relevant UK waters.

CENTRAL OBLIGATION

¹ Where B is comprised of more than one person the contribution required may be different for the different persons.

7. Relevant persons must, in the exercise of their relevant functions, take the steps necessary to secure that the maximum value of economically recoverable petroleum is recovered from the strata beneath relevant UK waters.
8. The Central Obligation must be read subject to paragraphs 2-6 (Safeguards).

SUPPORTING OBLIGATIONS

9. The Supporting Obligations must be read subject to paragraphs 2-6 (Safeguards).

Exploration

10. The licensee of an offshore licence must plan, fund and undertake exploration activities, including seismic and drilling activity, of a type and in a manner which is:
 - a. in relation to matters within their licence area, optimal for maximising the value of economically recoverable petroleum that can be recovered under the licence; and
 - b. in relation to matters outside their licence area, set out in a plan produced under paragraph 23.
11. The licensee of an offshore licence who has made a firm commitment to carrying out a work programme in respect of that licence must not relinquish the licence without first having completed the work programme as set out in the licence.
12. Where the obligation in paragraph 11 does not apply because paragraph 3 applies the licensee must carry out a work programme of the same or a similar nature to the one set out in the licence or such other work programme as the licensee may agree with the OGA enables the Central Obligation to be met.

Development

13. Relevant persons must plan, commission and construct infrastructure in a way that meets the optimum configuration² for maximising the value of economically recoverable petroleum that can be recovered from the region in which the infrastructure is to be located.
14. In considering the configuration required by paragraph 13, relevant persons must give due consideration to:

² In this context "configuration" includes not only the geographical placement of infrastructure, but also the sort of infrastructure to be used.

- a. whether or not any infrastructure proposed to be constructed under such a plan or commission could be of benefit to others, who are recovering petroleum from that region or who may begin to do so, by increasing the recovery of economically recoverable petroleum from that region; and
- b. whether or not any infrastructure already in existence could be used in such a way as to reduce costs or otherwise increase the recovery of economically recoverable petroleum from the region.

This includes consideration as to whether any such infrastructure (whether proposed to be constructed or already in existence) could be so used if reasonable adjustments were to be made to it.

Asset stewardship

15. The owners and operators of infrastructure must ensure that it is maintained in such a condition and operated in such a manner that it will achieve optimum levels of performance, including production efficiency³ and cost efficiency, for the expected duration of production, taking into consideration the stage of field and asset development, technology and geological constraints.
16. Owners and operators of infrastructure must ensure that it is operated in a way that facilitates the recovery of the maximum value of economically recoverable petroleum from (as applicable):
 - a. the region in which it is situated; and
 - b. where the infrastructure is used by or for the benefit of others, the regions in which those others are situated.
17. The obligation in paragraph 16 includes:
 - a. allowing access to infrastructure on fair and reasonable terms; and
 - b. where the infrastructure is not able to cope with demand for its use, prioritising access which maximises the value of economically recoverable petroleum.

Technology

18. Relevant persons must ensure that technologies, including new and emerging technologies, are deployed to their optimum effect, as set out in a plan produced under paragraph 23, in maximising the value of economically recoverable petroleum that can be recovered from relevant UK waters, including in relation to decommissioning.

³ Optimum production efficiency here is not necessarily the same as the highest achievable levels of production efficiency.

19. When considering whether to deploy new and emerging technologies in accordance with paragraph 18 relevant persons may have regard to:
- a. the risks and uncertainties associated with such technologies; and
 - b. the potential benefits to the UK of the development and deployment of such technologies.

Decommissioning

20. Before commencing the planning of decommissioning of any infrastructure in relevant UK waters, owners of such infrastructure must ensure that all viable options for their continued use have been suitably explored, including those which are not directly relevant to the recovery of petroleum such as the transport and storage of carbon dioxide.
21. Relevant persons must decommission infrastructure located in relevant UK waters in the most cost effective way that does not prejudice the maximising of the recovery of economically recoverable petroleum from a region. This includes ensuring due regard is given to the obligations in paragraph 18 insofar as they apply to decommissioning.
22. Where the OGA produces a plan under paragraph 23, which relates to the obligation in paragraph 20, it may identify particular pieces of infrastructure the decommissioning of which would prejudice the maximising of the recovery of economically recoverable petroleum in a region.

OGA Plans

23. Subject to paragraph 25, the OGA may produce a plan or plans which set out its view of how any of the obligations in this Strategy may be met. Such plans may address circumstances particular to a single or small group of relevant persons or may address circumstances at a regional level.
24. Where any relevant person intends to carry out activities in a manner which is inconsistent with any current plan produced by the OGA under paragraph 23 that person must first consult the OGA.
25. Where the OGA intends to produce a plan under paragraph 23, it must first seek the views of such relevant persons as it considers are likely to be affected by the proposed plan.

REQUIRED ACTIONS AND BEHAVIOURS

26. Any obligation arising from or under either the Central Obligation or one or more of the Supporting Obligations includes the requirements set out below.

Timing

27. All obligations must be complied with in a timely fashion.

Collaboration

28. When considering how to comply with obligations arising from or under this Strategy relevant persons must:

- a. where relevant, consider whether collaboration or co-operation with other relevant persons and those providing services relating to relevant functions in the region could reduce costs, increase recovery of economically recoverable petroleum or otherwise affect their compliance with the obligation in question;
- b. where it is considered possible that such collaboration or co-operation might improve recovery, reduce costs or otherwise affect their compliance with obligations arising from or under this Strategy, relevant persons must give due consideration to such possibilities; and
- c. co-operate with the OGA.

Cost reduction

29. The obligations set out in and deriving from this Strategy require that the full lifecycle costs of the recovery of petroleum, including decommissioning, and operations relevant to such matters be reduced as far as possible.

Actions where relevant parties decide not to ensure maximum economic recovery

30. Where this paragraph applies, by virtue of paragraphs 31 or 32, relevant persons must allow others to seek to maximise the value of economically recoverable petroleum from their licences or infrastructure including by divesting themselves of such licences or assets to other financially and technically competent persons who are able to recover economically recoverable petroleum.

31. Where relevant persons are not able to ensure the recovery of the maximum value of economically recoverable petroleum from their licences or infrastructure for financial reasons they must seek to secure investment from other persons. If they are not able to secure sufficient investment in a reasonable time, the obligation in paragraph 30 applies.

32. The obligation in paragraph 30 applies in all other circumstances where relevant persons decide not to ensure the recovery of the maximum value of economically recoverable petroleum from their licences or infrastructure, including where the reason for the decision not to recover is because recovery generates returns which are unsatisfactory to the relevant persons, they cannot raise suitable finance or there are technical or other non-economic reasons.

33. Where a relevant person is seeking to comply with the obligation in paragraph 30, that person must seek to do so without demanding compensation in excess of a fair market value or unreasonable terms and conditions, in order that other financially and technically competent persons who are able to recover economically recoverable petroleum may do so.
34. Where after a reasonable period the relevant person is unable to secure alternative funding or to divest themselves of the asset then, if the recovery of maximum value of economically petroleum would achieve a satisfactory expected commercial return they shall relinquish the related licenses.

Annex - Definitions

For the purposes of this Strategy:

“Central Obligation” is described in paragraph 1 and set out in paragraph 7;

“economically recoverable” in relation to petroleum means those resources which could be recovered at an expected (pre-tax) market value greater than the expected (pre-tax) resource cost of their extraction, where costs include both capital and operating costs but exclude sunk costs and costs (such as interest charges) which do not reflect current use of resources. In bringing costs and revenues to a common point for comparative purposes a 10% real discount rate will be used;

“infrastructure” means terminals and, upstream of a terminal, equipment, pipelines, platforms, production installations and subsea and subsurface facilities;

“offshore licence” means a licence granted under section 3 of the Petroleum Act 1998 in respect of an area, at least some of which is within relevant UK waters;

“the OGA” means the body entitled, at any time, to grant licences under section 3 of the Petroleum Act 1998 in respect of relevant UK waters;

“petroleum” has the same meaning as in the Petroleum Act 1998;

“region” means any area within relevant UK waters within which it is reasonable to expect that collaborative action could contribute to the fulfilment of the Central Obligation;

“relevant functions” means the functions which relevant persons are obliged by the Petroleum Act 1998 to exercise in accordance with the Strategy, but only insofar as those functions can affect the fulfilment of the principal objective. These do not include any functions in relation to any infrastructure or activities which are downstream of an oil or gas terminal;

“relevant persons” means the OGA and the persons listed in section 9C of the Petroleum Act 1998 at the date this Strategy is laid in Parliament;

“relevant UK waters” has the same meaning as in Part 1A of the Petroleum Act 1998;

“satisfactory expected commercial return” means an expected post-tax return that is reasonable having regard to all the circumstances including the risk and nature of the investment (or other funding as the case may be) and the particular circumstances affecting the relevant person; and

“Supporting Obligation” is described in paragraph 1.

