



NORWEGIAN MINISTRY  
OF PETROLEUM AND ENERGY

# Petroleum law spring 2013: Introduction and access to resources

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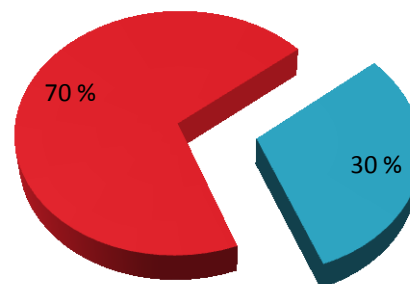
# Macroeconomic indicators (2011)

Norway's most important industry

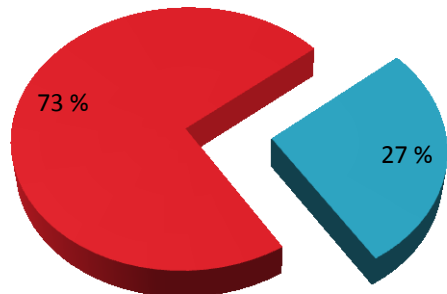
Petroleum sector – share of GNP



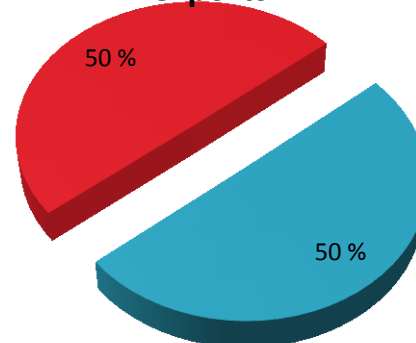
Petroleum sector – share of State revenues



Petroleum sector – share of total investments

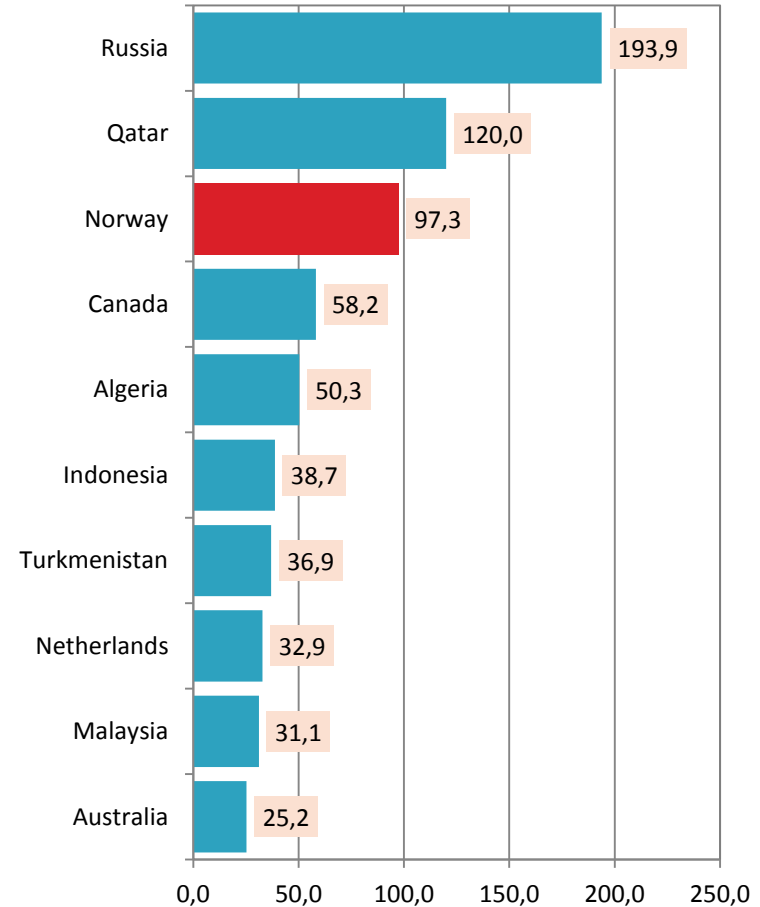
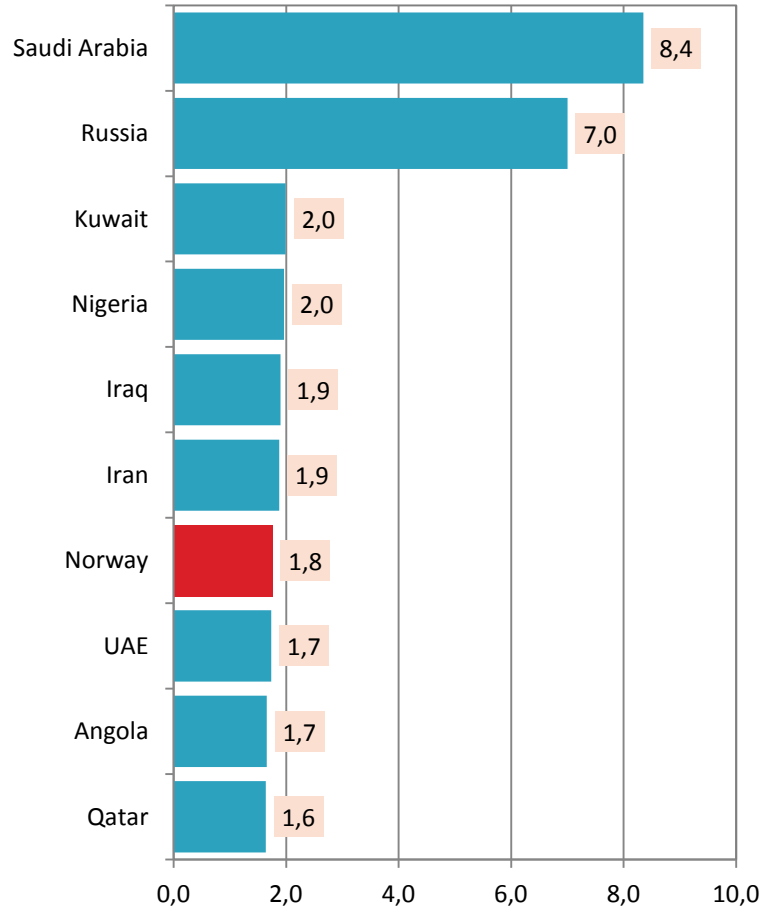


Petroleum sector – share of total exports



Source: Statistics Norway and the National Budget

# The largest oil and gas exporters in 2011



# History in brief

**1963: Norway proclaims its sovereign rights to the natural resources on the Continental Shelf**

**1963: The Continental Shelf Act: The property rights to petroleum resources on the Norwegian Continental Shelf are vested in the Norwegian State**

**1965: First licensing round – international participation**

**1971: Oil production started (Ekofisk)**

**1972: Petroleum Directorate and Statoil established – Statoil to have 50 % in all production licences**

**1978: Ministry of Petroleum and Energy (MPE) established – safety in another ministry**

## History in brief ctd.

- **1985: Statoil's participating shares divided into two parts: Statoil Economic Share (SES) and State Direct Financial Interest (SDFI)**
- **1988: Gas production started (Troll)**
- **2001: Statoil privatised – Petoro established as manager of SDFI**
- **2003: Gassled established – new gas transport regime**
- **2004: Petroleum Directorate divided – Petroleum Safety Authority established**
- **2013: 22st licensing round in process – around 650 production licences awarded till now**

## **Policy aims – since 1965**

- **Petroleum activities only offshore**
- **The property rights to petroleum resources on the Continental Shelf are vested in the State (PA Section 1-1)**
- **The petroleum resources are to be managed in a long term perspective to the benefit of society as a whole (PA Section 1-1)**  
**Resource management**
- **International companies invited to participate**
- **Development of national expertise**
- **Internationalisation of Norwegian petroleum industry**
- **Highest possible value creation**
- **Norway as a significant petroleum producer and exporter : In the forefront regarding environmental issues**

# UNCLOS Article 77

## *Article 77 Rights of the coastal State over the continental shelf*

1. The coastal State **exercises over the continental shelf sovereign rights** for the purpose of exploring it and exploiting its natural resources.
2. The rights referred to in paragraph 1 are **exclusive** in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.
3. **The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.**
4. The natural resources referred to in this Part **consist of the mineral and other non-living resources of the seabed and subsoil** together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the Subsoil.

# Resource management Norway

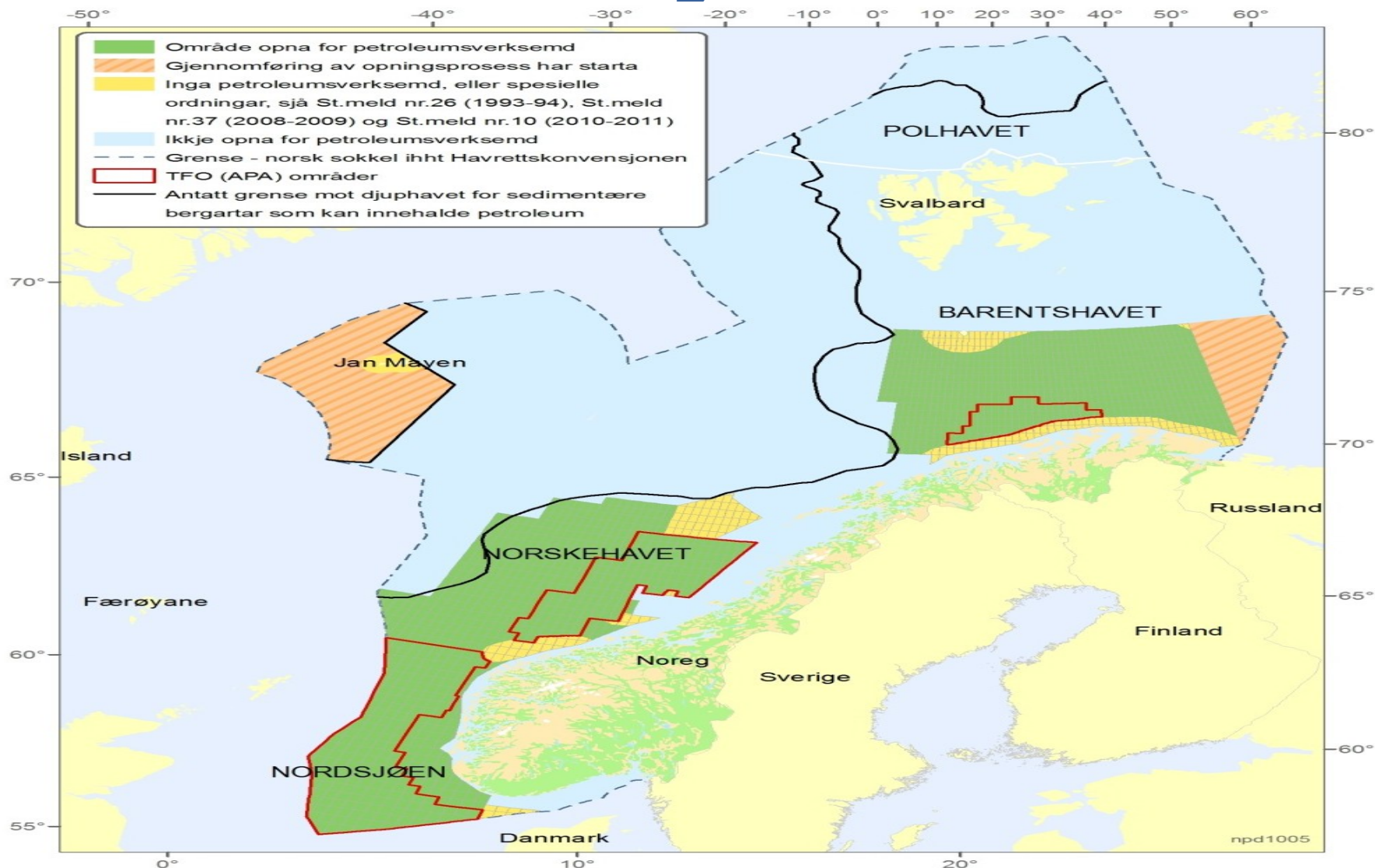
- **International participation:**
  - **Capital, competence, capacity**
- **National control:**
  - **Potential for conflicts between national interests and the interests of the international petroleum industry**
    - Each important activity is subject to Ministry approval (e.g drilling, development, pipeline transportation, disposal)
    - Important: Sufficient competition between oil companies and within the supply industry
    - Fiscal terms: Incentives to make the cake bigger
    - A highly competent and prudent petroleum administration – dialogue authorities/industry
    - **Copies of all information from the petroleum activities shall be submitted to competent authorities – free of charge**



# Implementation of petroleum policy

- The purpose of the petroleum policy is to achieve the **best possible resource management**
- The most important tools in obtaining policy aims:
  - Petroleum legislation
  - Resource management
  - Award system

# Areas on the Norwegian Continental Shelf



# **Opening of areas on the Continental Shelf for petroleum activities**

- **Petroleum Act Section 3-1 cf. the Petroleum Regulations Chapter 2a**
- **Directive 2001/42/EC – Strategic Environmental Assessments - SEA**
- **Impact assessment (MPE responsible):**
  - **Draft impact assessment programme to define baseline data required**
  - **Draft programme for public consultation – 6 weeks**
  - **Impact assessment based on the adopted programme – 3 months public consultation**

# **Opening of areas on the Continental Shelf for petroleum activities ctd.**

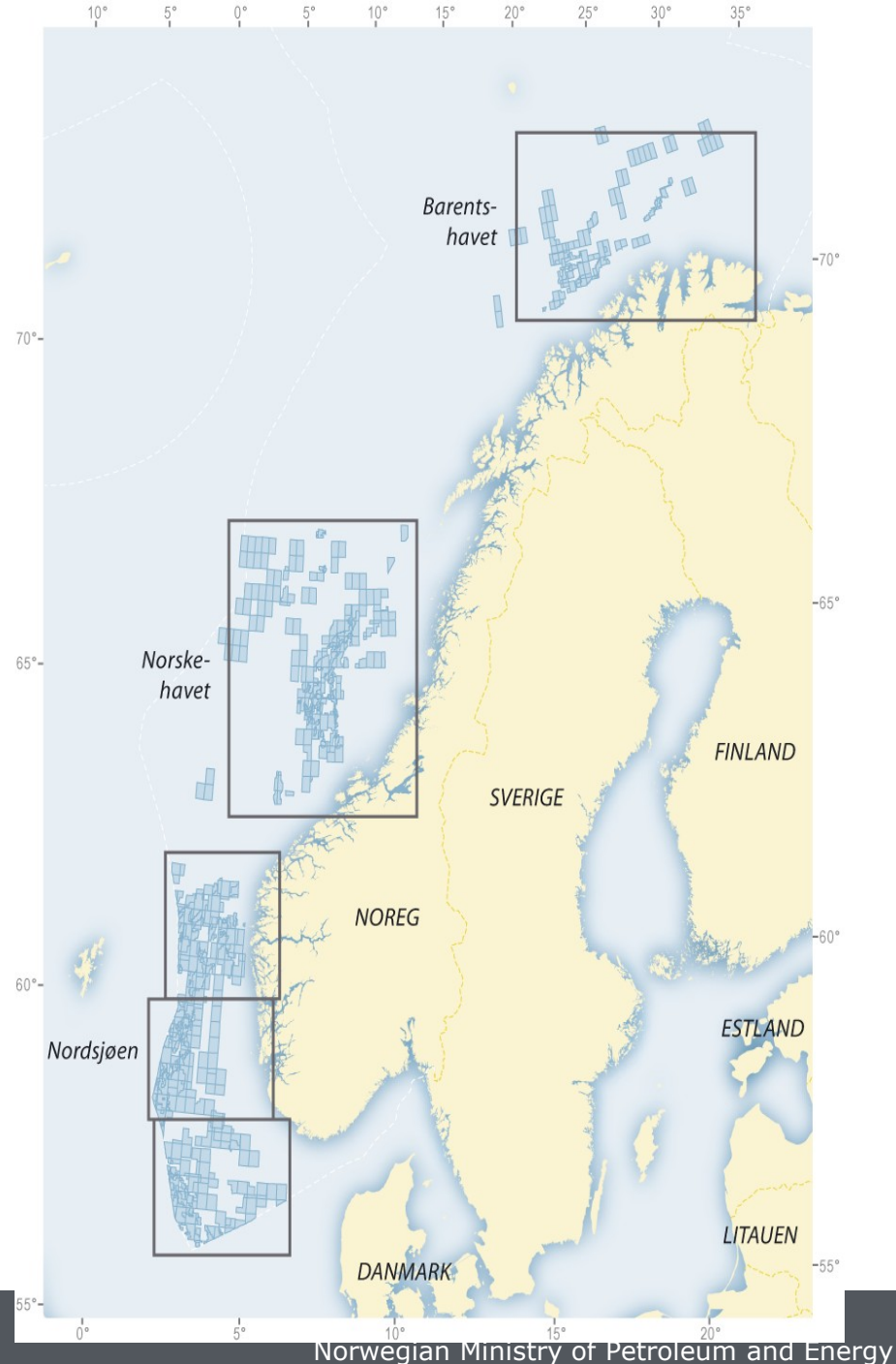
- **The impact assessment:**
  - **Adapted in to the issue in question as regards content, size and detail – build on existing knowledge to the extent possible**
  - **Description of expected consequences of the opening an area for petroleum activities regarding commercial activities and environmental aspects, including the possibility of pollution, and expected economical and social effects (employment)**
  - **Expected consequences of opening the area for petroleum activities in relation to, among others, animal and plant life, sea bottom, water, air, climate, landscape, contingency and risk of accidents, and the relationship between all these**
- **Parliament (Stortinget) to take the final decision to open a new area on the Continental Shelf for petroleum activities**

## Areas on the Norwegian Continental Shelf presently open for petroleum activities:

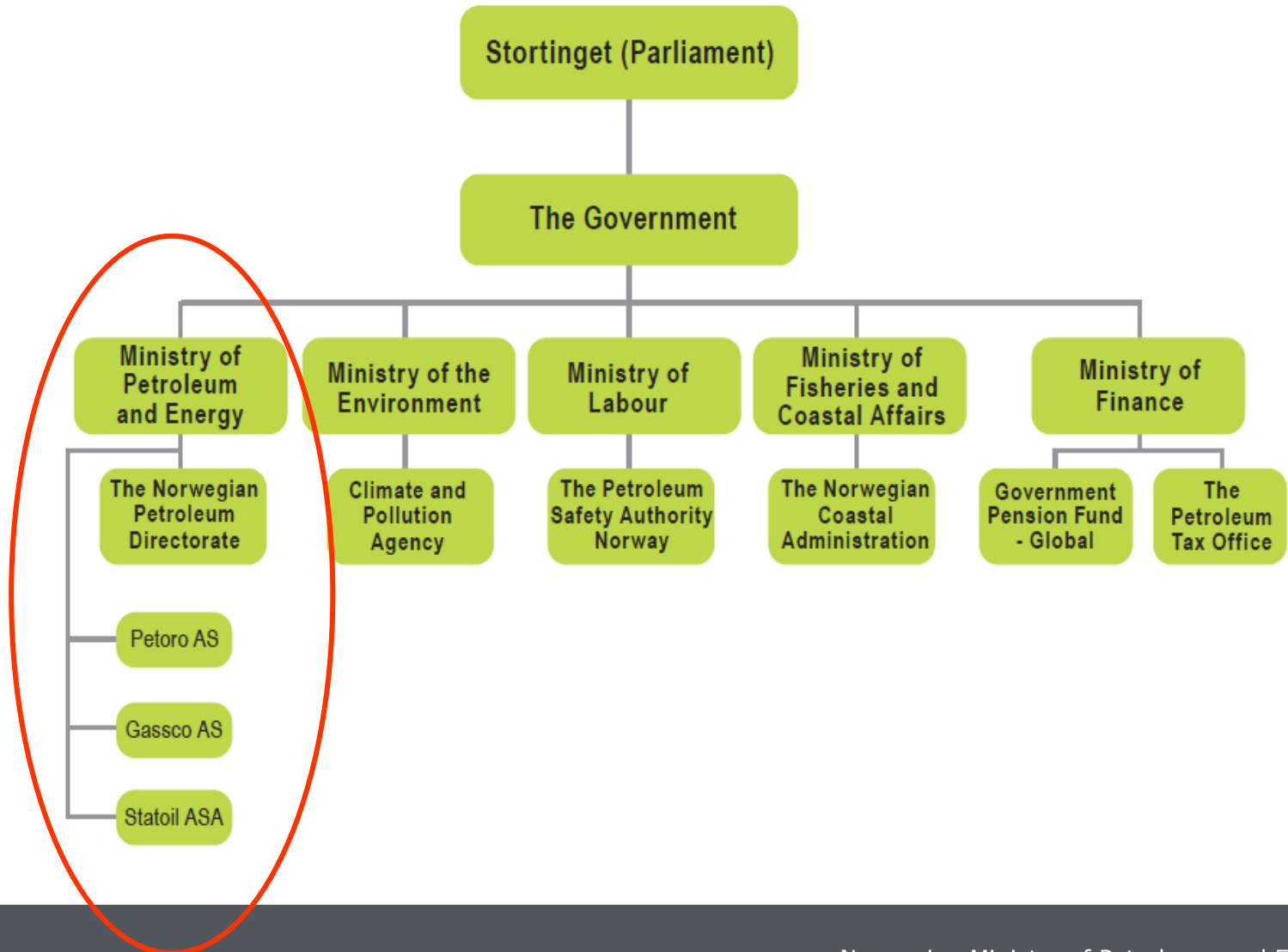
**North Sea: Open for petroleum activities since 1965**

**Norwegian Sea: Open for petroleum activities since the 80-ties**

**Barents Sea South: Open for petroleum activities since the 80-ties**



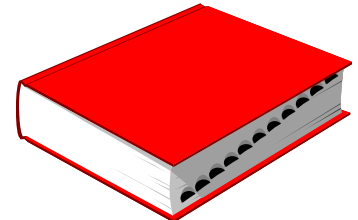
# State organisation of the Norwegian petroleum sector



# Norway:

## Legal framework for petroleum activities

- **Act of 29 November 1996 No. 72 pertaining to petroleum activities (Petroleum Act)**
- **Regulations to the Petroleum Act, laid down by Royal Decree 27 June 1997 (Petroleum Regulations)**
- **Technical regulations**
- **Safety (HSE) regulations**



# **Relationship between the various actors in the petroleum activities**

- **The State – licensees/operators**
  - **Access to petroleum resources (award system)**
  - **Development of fields and pipelines – decommissioning**
  - **Health, safety and environment (HSE)**
  - **Petroleum tax**
- **Companies in the transportation market/gas market**
  - **System operation**
  - **Access to infrastructure – capacity administration**
  - **Gas sales**
- **Licensees/third parties**
  - **Liability**
  - **Contracts under Norwegian law**



# Petroleum legislation – development

- **Royal Decree 9 April 1965**
- **Royal Decree 8 December 1972**
- **Act of 22 March 1985 pertaining to petroleum activities**
- **Act 29 November 1996 No. 72 pertaining to petroleum activities**
- **27 June 1997: Petroleum Regulations**
- **EU licensing Directive – in effect for Norway from 1 September 1995**
- **1999: Directive 85/337 and 97/11 on impact assessments**
- **2001: New Chapter 11 regarding Petro**
- **2003: New Chapter 9 in the Petroleum Regulations – EU gas market directive**
- **2005: New Chapter 2a in the Petroleum Regulations – SEA directive 2001/42/EC**

# Overview of the Petroleum Act

**The Petroleum Act pertains to (PA Section 1-6):**

- **A) Petroleum**, all liquid and gaseous hydrocarbons existing in their natural state in the subsoil, as well as other substances produced in association with such hydrocarbons
- **J) Licensee**, natural person or body corporate, or several such persons or bodies corporate, holding a licence according to this Act or previous legislation to carry out exploration, production, transportation or utilisation activities. If a licence has been awarded to several such persons jointly, the term licensee may comprise the licencees collectively as well as the individual licensee
- **K) Operator**, anyone executing the day to day management of the petroleum activities on behalf of the licensee(s)

# Overview of the Petroleum Act

## The Petroleum Act pertains to (PA Section 1-6):

- **C) Petroleum activity**, all activities associated with subsea petroleum deposits, including exploration, exploration drilling, production, transportation, utilisation and decom-missioning, including planning of such activities, but not including, however, transport of petroleum in bulk by ship
- **E) Exploration**, geological, petrophysical, geophysical, geochemical and geotechnical activities, including shallow drilling, as well as operation and use of a facility to the extent it is used for the purpose of exploration
- **G) Production**, production of petroleum, including drilling of production wells, injection, improved recovery, treatment and storage of petroleum for transport, and shipment of petroleum for transport by ship, as well as the construction, placing, operation and use of a facility for the purpose of production

# Overview of the Petroleum Act

The Act pertains to (PA Section 1-6):

- **H) Transportation**, shipment of petroleum by pipeline as well as the construction, placing, operation and use of a facility for the purpose of transportation
- **I) Utilisation**, cooling in order to liquefy gas, refining and petrochemical activity, production and transmission of electric power and other use of produced petroleum, storage of petroleum as well as the construction, placing, operation and use of a facility for the purpose of utilisation (*but only when such utilisation is necessary to or constitutes an integrated part of production or transportation of petroleum (Section 1-4, second para)*)

# **The Petroleum Act - overview**

- **The Petroleum Act is structured so as to reflect the various phases of the petroleum activities:**
  - **Opening of new areas for petroleum activities**
  - **Prospecting licence**
  - **Production licence/award conditions**
  - **Plan for development and operation**
  - **Licence to install and operate pipelines etc.**
  - **Decommissioning**

# **Rights to carry out petroleum activities**

- **Choices:**
  - **Production sharing agreements - PSAs**
  - **Risk service agreements**
  - **Licences/permits/concessions**

# **Production Sharing Agreements (PSA)**

- **Attraction of PSA structure :**
  - **Agreement (contract) between the State (national oil company) and one/more commercial oil companies to explore for and produce oil and gas**
  - **PSA can impose a relatively comprehensive legal regime to govern an investment in a complex and rapidly changing legal and political environment**
  - **The title to petroleum remains with the host state**
  - **Oil company (contractor) has to put up 100 % of the cost of the activities**
  - **Oil company responsible for day-to-day activities**
  - **Compensation is paid out of production from licence area**
  - **Cost recovery for oil company through pay-back (cost) oil**

## **Risk service contracts**

- **Instrument for oil industry to get access to assured petroleum supply in areas closed to international participation**
- **Title to petroleum remains fully with title holder – normally State oil company**
- **Total lack of access to equity petroleum**
- **Service contract with payment in cash, not petroleum produced**
- **Total national control of petroleum resources**
- **Oil company gets no compensation in case of unsuccessful exploration**



# Licensing system

**Norway, UK, Denmark and the Netherlands –  
a licensing system**

- **PA Section 1-3:**

***None other than the State may carry out petroleum activities without the licences, approvals and consents required pursuant to this Act***

- **Prospecting licence (PA Section 2-1)**

- **Production licence (PA Section 3-1)**

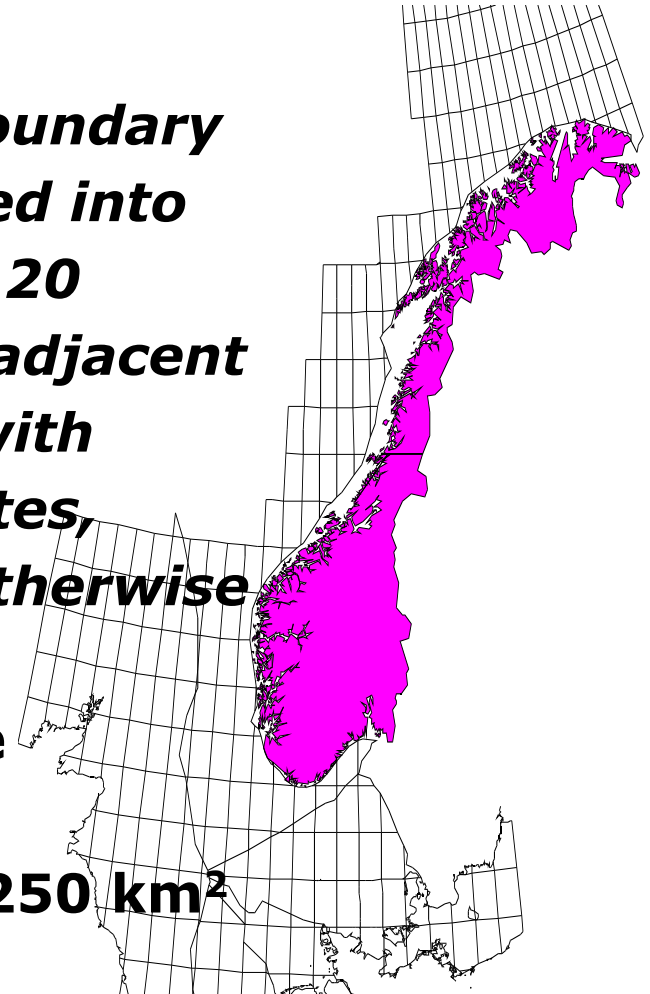
- **Approval of Plan for development and operation (PA Section 4-2)**

- **Licence to construct and operate pipelines (PA Section 4-3)**

- **Decommissioning plan (PA Section 5-3)**

# Blocks

- **PA Section 3-2:**  
*Offshore areas inside the outer boundary of the continental shelf are divided into blocks of 15 latitude minutes and 20 longitude minutes in size, unless adjacent land areas, common boundaries with the continental shelf of other states, or other circumstances warrant otherwise*
- **Each block is apprx. 500 km<sup>2</sup> in size**
- **The Barents Sea: Block size apprx. 250 km<sup>2</sup> due to the curvature of the earth**



# Prospecting licence



- **Petroleum Act Chapter 2**
- **Aim: Contribute to the best possible geological mapping of petroleum resources**
- **Prospecting licence:**
  - **Licence to carry out prospecting in defined areas (geological, petrophysical, geophysical, geochemical and geotechnical activities, drilling of shallow wells (200 m))**
  - **No exploration drilling**
  - **Non-exclusive – duration of maximum 3 years**
  - **Licence given to oil companies/survey companies**
  - **Used for contracted surveys in dedicated production licences/speculation (commercial) surveys**

# Principle of co-existence

- **PA Section 10-1: *The petroleum activities must not unnecessarily or to an unreasonable extent impede or obstruct shipping, fishing, aviation or other activities, or cause damage or threat of damage to pipelines, cables or other subsea facilities.***
- **Very important in relation to geological mapping (gathering of seismic data)**
- **Conditions upon award of licences: Time/area restrictions regarding geological mapping**

# **Norway: State participation**

# State participation – development

- **Basis for State participation included in the Petroleum Act Section 3-6**
- **Until mid-90ties: State participation stipulated as licence condition upon award of the individual production licence**
- **State participation regime developed over time:**
  - **First licensing round – no State participation**
  - **Second licensing round:**
    - Net profit interest 5-15%
    - No active role for the State

# State participation - development

## Third licensing round (1974):

- **Statoil established in 1972**
  - **Statoil: regular joint stock company**
  - **Statoil shares 100 % owned by the State**
- **Statoil role primarily commercial, but also a few regulatory tasks**
- **50% Statoil participation i all new production licences – represented the entire State participation**
- **Carried interest introduced:**
  - **Exploration costs of Statoil (Hydro and Saga) covered by foreign companies until declaration of commerciality**
  - **No refund of exploration costs**
  - **Costs of development and operation covered by Statoil (and Hydro and Saga, as appropriate)**

# State participation - development

## Fourth licensing round – 1979

- **Sliding scale introduced:**
  - **Right for Statoil to increase participating interest to a predefined level – at time of PDO – subsequently based on production level**
  - **Decided at the time of award**
  - **Open to bidding from applicants**
  - **Highest level obtained: 80%**
  - **Maintained carried interest**
  - **No regulatory power to Statoil**
  - **Responsibility for resource management and safety issues divided between ministries (MPE responsible for resource management)**



# **State participation - development**

## **Reorganising carriage of interest and sliding scale**

- **11th licensing round (1986): Carriage of interest abolished in new production licences**
- **12th licensing round (1988): Sliding scale system changed: Defined increase of share – to be exercised once only – upon approval of Plan for development and operation (PDO) – for the PDO-area only**
- **Parliamentary decision 1991: Carriage of interest abolished in all production licences**
- **Parliamentary decision 1994: Sliding scale abolished in all production licences (except 3 – 4 defined fields in production)**

# State participation - development

## Reorganisation of State participation 1984-85

- Based on decision by Parliament (Stortinget)
- Divided state participation into two parts (Statoil Economic Share/State Direct Financial Interest (SDFI))

## Further development in the 1990'ies:

- 14th licensing round:
  - State participation below 50% - and not in all licences
- 15th licensing round → (EC Hydrocarbon Licensing Directive (directive 94/22/EC) applied):
  - No Statoil privileges
  - State participation only through SDFI



- **Statoil was established as a 100 % State owned national oil company in 1972**
- **Privatised and listed on 18 June 2001 in Oslo and New York**
- **Second offering July 2004**
- **Merged with oil and gas part of Norsk Hydro on 1 October 2007**
- **The State c/o MPE presently holds a 67 % stake in Statoil**
- **Responsible for marketing and sale of SDFI petroleum in accordance with instructions laid down by the General Meeting. All revenues from the sale go directly from Statoil to the State coffers**
- **Statoil operates on the same terms and conditions as other commercial players on the NCS**

# **The State Direct Financial Interest (SDFI)**

- **Since 1984**
- **A cash-flow-system – not a legal entity**
- **The Government holds shares through SDFI directly in oil and gas fields, pipelines and land-based facilities**
- **The SDFI is a field-specific instrument, the share is adapted to the profitability and resource potential of the individual production licence at the time of award**
- **PA Chapter 11 included in 2001**



- **Limited company 100 % owned by the State c/o MPE**
- **Norwegian Continental Shelf only, unless otherwise decided by Royal Decree**
- **Manages the SDFI assets on behalf of the State**
- **A management company – not an oil company (licensee only – not operator)**
- **No dividends, no tax liability**
- **Relatively small company - 65 employees**

# SDFI and Petoro

- The operating expenses, investments and other expenditure incurred to or relating to the management of the **SDFI** are covered by appropriation from the Norwegian State
- Funds for the operation of **Petoro** are provided for by the Norwegian State through the State Budget
- Petoro keeps separate accounts in respect of revenues and expenses relating to the SDFI and relating to the operation of the company itself