CHAPTER 5

Recent Framework Agreements for the Recognition and Development of Transboundary Hydrocarbon Resources

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Abstract

Hydrocarbon accumulations straddle international boundaries and maritime zones. Historically states dealt with this reality by negotiating unity-of-deposit clauses in maritime delimitation agreements, followed by specific agreements upon the discovery of a straddling deposit. A more recent trend is to negotiate framework agreements which are designed to put in place a set of procedures for dealing with the discovery and exploitation of transboundary hydrocarbon resources. This chapter examines selected aspects of five recent framework agreements.

Keywords
transboundary hydrocarbons – unitization

Introduction

It has long been understood that hydrocarbon accumulations straddle international boundaries and maritime zones.1 State treaty practice responded to this geological reality in two stages. The first stage saw the inclusion of a so-called unity-of-deposit clause in continental shelf delimitation agreements. Such

clauses contemplated that in the event that the parties identified a geological structure that straddled the delimitation line and which was exploitable from either side, then the parties will seek to reach agreement on the manner of exploitation of the deposit and its apportionment. Article 3 of the 1965 agreement between Norway and the United Kingdom is representative:

If any single geological petroleum structure or petroleum field, or any single geological structure or field of any other mineral deposit, including sand or gravel, extends across the dividing line and the part of such structure or field which is situated on one side of the dividing line is exploitable, wholly or in part, from the other side of the dividing line, the Contracting Parties shall, in consultation with the licensees, if any, seek to reach agreement as to the manner in which the structure or field shall be most effectively exploited and the manner in which the proceeds deriving therefrom shall be apportioned.

This is the simplest version of the clause. It contains no reference to third-party assistance in reaching an agreement, but it does contemplate that the parties will involve their licensees. Some recent agreements still follow this model.

In the second stage, states negotiated individual treaties to deal with specific straddling deposits as they were discovered and developed. The first such agreement was the Frigg Field Reservoir Agreement (1976) in the North Sea between Norway and the United Kingdom. This was followed by other agreements between those two countries with respect to the Statfjord Field Reservoirs (1979), and Murchison (1979). The pattern was extended to the Netherlands with the adoption of the Markham Agreement between the United Kingdom and the Netherlands in 1992.

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2 London, 10 March 1965, 551 UNTS 213.
4 Agreement relating to the exploitation of the Frigg Field Reservoirs and the transmission of gas therefrom to the United Kingdom (London, 10 May 1976) 1098 UNTS 3.
5 Agreement relating to the exploitation of the Statfjord Field Reservoirs and the offtake of petroleum therefrom (Oslo, 16 October 1979) 1254 UNTS 379.
6 Agreement relating to the exploitation of the Murchison Field Reservoir and the offtake of petroleum therefrom (Oslo, 16 October 1979) 1249 UNTS 173.
7 Agreement relating to the exploitation of the Markham Field Reservoirs and the offtake of petroleum therefrom (The Hague, 26 May 1992) 1731 UNTS 30235.