

**NORWEGIAN OFFSHORE PETROLEUM
THE LEGAL AND ADMINISTRATIVE RESPONSE**

BY

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I. INTRODUCTION

The history of Norwegian offshore petroleum is a short and hectic one. It began in 1962, when the first foreign oil companies applied to Norwegian authorities for permission to start drilling for petroleum on the shelf off the coast of Norway. It was not until 1965, however, that the first production licences were granted by the state (see below II.3), following the coming into force of the Continental Shelf Act in 1963. The first exploration well was drilled in 1966, and in 1969 the first commercially viable discovery was made. From then on things happened fast: the first field—the Ekofisk—went on stream as early as 1971. Today (October 1980) production is in progress in four areas, viz. the Ekofisk area, the Frigg field, the Statfjord field and the Murchison field.

The Ekofisk area comprises seven individual fields, viz. Ekofisk, West-Ekofisk, Eldfisk, Albuskjell, Cod, Edda and Tor, which are partly owned by different groups of licensees. Petroleum produced from all fields is carried to central installations on the Ekofisk field, and from there the oil is transported by pipeline to Teeside in Great Britain and the gas by pipeline to Emden in West Germany.

The Frigg field contains natural gas only. It is located on the border between the Norwegian and the British Continental Shelf. The field produces from installations sited on both sides of the border, and the gas is transported by pipeline to St. Fergus in Scotland.

The Statfjord field is the largest commercial oilfield so far discovered in the North Sea. This field is likewise located on the border between the British and the Norwegian Continental Shelf, but the production units will all be placed on the Norwegian side. The field contains both oil and gas. For the time being, only oil is produced, and this is carried ashore by tankers. The landing of the gas requires a pipeline, and the construction of such a pipeline is now under consideration. The development of the field is not expected to be completed until 1986 at the earliest.

The Murchison field came into production on September 30, 1980. The field is located mainly on the British shelf, where also the production installations are sited.

In addition to the production areas, the *Valhall/Hod* area is under

development. The production start is scheduled for the autumn 1982, and the petroleum will be landed through the Ekofisk pipeline systems. It has also been decided to develop three smaller fields, *Ula*, *Nordøst-Frigg* and *Odin*; these are expected to come on stream in 1983–84.

During 1979 several promising new finds were made, among them a large gas find estimated to be about 10 times as big as the Frigg field. Further drilling has taken place in 1980 in order to evaluate these finds. It is still too early, however, to say when the finds may be developed. Some of them are situated at such large depths of water that technological innovations are needed in order to develop them and start production.

Up to 1980 the petroleum activities have been concentrated on the area south of the sixty-second parallel. During the winter of 1980 the Norwegian Parliament decided to allow exploration activities on three blocks north of the parallel. Drilling started at the end of May 1980, but it is still (October 1980) too early to give any indication of the success of the operations.

Initially foreign oil companies dominated the petroleum activities. Since 1972, however, Norwegian companies—and in particular the Norwegian state's own company, Statoil (see below under V.1)—have played an increasingly important role. It is assumed that the foreign companies will exercise considerable influence also in the future, *inter alia* because the experience and the capacity of Norwegian companies are not yet quite adequate.

The impact of the North Sea oil on the Norwegian economy is considerable, and the oil is certain to play an increasingly central part in the national economy in the years to come. Some figures may be illustrative.¹ The Government revenue from taxes and fees stemming from the petroleum activities amounted in 1979 to about 6.5 thousand million NOK (Norwegian kroner), which is 13 per cent of the Government's total income from taxes and fees in that year. The revenue will continue to rise at an ever-increasing rate; an estimate from May 1980 shows that for the period 1980–85 taxes and fees are expected to reach around 300 thousand million NOK.² In 1979 the petroleum sector's percentage of the GNP was about 9, while the oil and gas exports in the same year amounted to about

¹ The numbers and factual information given below have been obtained mainly from Storting Report No. 53 (1979–80) Concerning the Activity on the Norwegian Continental Shelf, which was published in January 1980 and which is available in an English translation. For those interested in Norwegian oil policy, the Report provides a broad introduction to the principles which so far have governed the activities, and it also points out the guidelines recommended for the future.

² See *Odelstingsproposisjon* no. 37 (1979–80), pp. 36–7. This proposition led to the changes in taxation of the petroleum activities mentioned under II.5 below. An unofficial mimeographed translation into English is available.

22 per cent of Norway's total exports. These figures are expected to rise to 20 per cent and 40 per cent respectively by the mid-1980s.

The number of people employed in the petroleum industry also indicates the importance of oil for the Norwegian national economy. In January 1980 about 36 000 persons were employed in the petroleum activities themselves or in industries directly involved in those activities. This amounts to 2 per cent of the total employment in Norway and about 9 per cent of the industrial employment. The employment rate is not expected to grow in the years to come.

In January 1980 the total investments in the development of the fields amounted to 47 thousand million NOK. These investments have mainly been financed through capital imports. The Norwegian share of supplies has shown a steady increase. Thus in 1978 the Norwegian share of contracts placed amounted to 85–90 per cent and the net share—after corrections for direct imports—to 62 per cent. Further increases are not, however, expected. The Government has paved the way for Norwegian industry by making it a condition when granting production licences that Norwegian goods and services shall be used when and where they are competitive. When granting licences, the authorities also have taken into consideration the applicants' placing of orders with Norwegian industry and their cooperative contracts with Norwegian industry within as well as outside the petroleum sector.

II. THE LEGAL REGIME³

1. Up to the second world war the question of the rights of the coastal states to the Continental Shelf and the natural resources to be found there was of little interest, partly because of the inadequacy of available techniques for exploitation. In September 1945, however, the United States proclaimed exclusive rights to the natural resources on the seabed and in the subsoil on its continental shelf. This proclamation was followed by similar declarations from several other countries.

On April 29, 1958, the Convention on the Continental Shelf was adopted under the auspices of the United Nations. Under this Convention the "coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources".⁴ When

³ Krohn, Kaasen, Lund, Rein and Sogn, *Norwegian Petroleum Law*, English edition Oslo 1978, gives a broad survey of the Norwegian legal regime for the petroleum activities.

⁴ Art. 2, sec. 1.

delimiting the continental shelf, the Convention turns to a criterion of exploitation ("to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas").⁵ Unless some other boundary is justified by special circumstances, or is agreed to by the states, the equidistance principle is used for determining the boundaries where the same continental shelf runs along the territories of two adjacent states, or where two states have coastlines opposite each other.⁶ The Convention came into force in June 1964.

Norway did not ratify the Convention until 1971. Already on May 31, 1963, however, Norway had proclaimed that the continental shelf off the Norwegian coast should be subject to Norwegian sovereignty in respect of the exploration for and exploitation of natural resources.⁷ The proclamation was not based on the Continental Shelf Convention, but on customary international law. Not until Norway, through agreements with the United Kingdom, Denmark and Sweden concluded in the period 1965–68, had found acceptance for the view that the Norwegian Trench did not represent an outer limit to the Norwegian continental shelf, although it goes down to a depth of 300–700 metres, did Norway ratify the Convention. In the northern areas the boundaries of the continental shelf are still not clear, and negotiations are currently being conducted with, *inter alia*, the Soviet Union.

2. The proclamation on Norwegian sovereignty over the continental shelf was followed by the Act of June 21, 1963, relating to Exploration for and Exploitation of Submarine Natural Resources (the Continental Shelf Act). The Act establishes the principle that the right to submarine natural resources is vested in the state, and that the Government may (1) give Norwegian and foreign companies the right to explore or exploit natural resources and (2) issue regulations and stipulate conditions for such exploration and exploitation. The wide authority thus given to the administration reflects the Norwegian authorities' lack of experience at the time as regards the formulation of a more detailed statutory regulation of the petroleum activities.

⁵ Art. 1.

⁶ Arts. 6 and 7.

⁷ The proclamation is printed in the booklet *Legislation concerning the Norwegian Continental Shelf, with unofficial English translation*, together with Acts of Parliament and Decrees pertaining to the petroleum activities. The latest edition (October 1977) was published by the Ministry of Industry.

3. Based on the Continental Shelf Act, a series of comprehensive and detailed regulations on the petroleum activities on the Norwegian continental shelf have been issued. An instrument of primary importance is the Decree of December 8, 1972, which superseded the Decree of April 9, 1965, and which contains the main rules relating to exploration for and exploitation of petroleum resources on the Norwegian continental shelf. The 1972 Decree designates three different types of licences that may be granted.

The reconnaissance licence entitles the licensee to carry out seismic and other surveys in order to locate possible petroleum deposits. The licence is applicable to a delimited area for a period of up to three years. It does not grant an exclusive right for exploring the designated area, nor does it bestow on the licensee a right or preferential status for the exploitation of possible petroleum deposits.

The production licence is the most important of the three types of licences, in so far as it gives the licensee an exclusive right to explore for petroleum by drilling on delimited areas (blocks) of the shelf and to exploit any petroleum thus found. A production licence is valid for a period of six years, and during this period the licensee has to fulfil an agreed working programme. At the end of the six-year period, the licensee may demand that the licence shall be extended for thirty years for up to one half of the original licence area. The licensee has to pay certain fees for the production licence, of which the royalty, based on the value of petroleum produced,⁸ is of the greatest economic importance. For oil, the royalty varies between 8 and 16 per cent, depending on the size of the production, whereas the royalty for gas is a flat 12 1/2 per cent. The value on which the calculation of royalty is based is for oil stipulated at a *norm price* in accordance with a Decree of June 25, 1976. The norm price must correspond to the price at which petroleum could have been sold between independent parties in a free market. The norm price, which is stipulated in arrears for each quarter, is also used for tax-assessment purposes.

As a condition for granting a production licence the authorities may require state participation, and such participation has been customary since 1969 through so-called state participation agreements. Originally, these agreements gave the Norwegian state an option of equity interests in the licence if commercial discoveries were made. Since 1972, Statoil (see below under V.1) has participated in all production licences with at least a 50 per cent equity interest in the licence from the allocation of the block.

⁸ See further Frihagen, *Beregning av royalty* (The point of reference for royalty value—Summary in English), Bergen 1979.

Up to October 1, 1980, 61 production licences had been granted on the basis of the 1965 and 1972 Decrees, covering 118 blocks. In the majority of production licences, the licensee comprises more than one corporation. In that case one of the participants is appointed as *operator*, which implies that he is to be in charge of activities on behalf of the joint venture.

The production licence and the 1972 Decree apparently give the licensee a right to exploit such petroleum deposits as he may find by setting up the necessary production facilities without any further formal licences. On the other hand, the licensee needs a special *licence for the placing of installations other than production facilities* in order to set up storage facilities, shipment installations, pipelines, etc. Actually, however, the authorities have also had a decisive influence as regards the installation and operation of the production facilities. The 1972 Decree stipulates that the petroleum produced shall be landed in Norway, unless the authorities, upon application, approve some other landing place. So far, such applications have been submitted for all the development projects, and in these cases the authorities have always insisted on a total plan for the development and operation of the field for their assessment before granting the necessary landing permit.⁹

In addition to the three types of licences described above, the 1972 Decree also prescribes that certain measures to be implemented by the licensee need the consent or approval of the authorities. It should further be noted that the authorities often stipulate comprehensive terms under which licences, approvals and consents are given (as shown by the example in the preceding paragraph).¹⁰ Some of these terms, for instance those contained in the production licences, may for all practical purposes be regarded as standard. Thus, in order to form a complete picture of the position of the licensee and of the authorities' control over the activities, it is necessary to take into account the regulation implemented by way of conditions in licences, consents or approvals.

4. Among other decrees applying to the petroleum industry, those setting forth the *safety regulations* are of particular importance. For the exploration and drilling phase, safety regulations were originally contained in the Decree of August 25, 1966; this Decree has since been replaced by the Decree of October 3, 1975, relating to Safe Practices, etc., in Exploration

⁹ See further Selvig, "Konsesjonssystemet i petroleumsvirksomheten" (The licensing system in the petroleum activities), *TfR* 1981, p. 25.

¹⁰ See further Frihagen, *Vilkår ved utvinningstillatelse m.v.* (Conditions in production licenses, development permits, pipeline concessions, etc., under sec. 44 in the proposed Petroleum Act—English summary), Bergen 1979.

and Drilling for Submarine Petroleum Resources. For the construction and production phase, safety regulations are contained in the Decree of July 9, 1976, relating to Safe Practice for the Production, etc., of Submarine Petroleum Resources. Both decrees provide a framework only: they authorize various ministries and governmental institutions to establish more detailed rules within the scope of the decrees.

5. Outside the Continental Shelf Act, formal statutes—passed by the Storting (Parliament)—with exclusive application to the petroleum activities are to be found only in connection with taxation. As is the case with the law pertaining to production licences, the tax legislation is characterized by a gradual tightening up of the stipulations. Under the Act of June 11, 1965, relating to the Taxation of Submarine Petroleum Deposits, the taxation of companies engaged in petroleum activities was more lenient than the ordinary corporation taxation. The special advantages were abolished in 1972, and by the Act of June 13, 1975, relating to the Taxation of Submarine Petroleum Resources, etc., the picture was completely changed. A new tax, called the “Special Tax”, was levied on oil and gas production and transportation by pipeline. It was payable in addition to the ordinary corporation taxes. The last link in the chain was an Act passed by the Storting on June 13, 1980. This measure meant a further turn of the tax screw, involving as it did, *inter alia*, a raising of the special tax from 25 to 35 per cent.

6. The Norwegian legislation on petroleum activities is currently being revised. A special committee, the so-called Petroleum Act Committee, submitted its report in the spring of 1979. The report contained a Draft Act and Draft Regulations relating to the petroleum activities on the Norwegian continental shelf.¹¹ The Ministry of Petroleum and Energy is expected to have a Bill ready in 1981 for submission to the Storting. The new Act, accompanied by regulations, will supersede the regulation of the petroleum activities under the Continental Shelf Act and the 1972 Decree. Some of the standardized licence terms contained in production licences granted during the last few years will also be incorporated. As regards the safety regulations contained in the Decrees of 1975 and 1976, only small alterations have been proposed. These decrees will now be founded on the new Act. The question may arise whether the rules on safety are not of such importance that at least the main principles should be laid down in a formal Act of the Storting.

¹¹ NOU 1979: 43 *Petroleumslov med forskrifter* (Petroleum Act with regulations, no English translation).

The Petroleum Act Committee is currently preparing recommendations for an act on civil liability for oil pollution damage in connection with exploration for and exploitation of petroleum on the continental shelf. Today the licensee under a production licence assumes strict liability for such damage in the licence itself. The Committee is expected to complete its work by the summer of 1981.

III. TRENDS IN THE NORWEGIAN GOVERNMENTAL ORGANIZATION RELATING TO THE PETROLEUM ACTIVITIES

1. The organizational model used by the Norwegian authorities in their dealings with the petroleum activities has changed considerably over the years. The development falls naturally into three stages.

The *first* stage, from the beginning of the 1960s to 1972, is characterized by uncertainty on the part of the Government when trying to envisage the impact of the petroleum activities on Norway and its economy, and by hesitation in establishing a separate administration of the activities.

During these years the handling of the petroleum sector was for the most part incorporated in the organization already established to deal with the mining industry. Up to 1966, continental shelf affairs were handled by the mining division of the administrative department of the Ministry of Industry. Then a separate oil division was established within the same department.

To assist the Ministry in preparing parliamentary Bills and decrees, the Continental Shelf Committee was established in the autumn of 1963. This Committee was dissolved in the spring of 1965 and replaced by a State Oil Council with six members. The Council was set up as an advisory and recommendatory body to aid the Ministry of Industry in matters involving exploration for and exploitation of submarine petroleum resources.

2. In many respects the discovery of the Ekofisk field brought a new dimension to the relationship between the authorities and the petroleum activities. The development of the field raised a series of new and difficult questions of a technico-economic and regulatory nature. At the same time the Norwegian Government had made it clear to the oil companies that it wanted a bigger say in petroleum matters in the future, for instance by requiring state participation in production licences from 1969 (see above, II.3). Such a position for the state would also create new and difficult tasks.

In the *second* phase (1972–78), recognition of the fact that the numerous new tasks could not be appropriately solved within the framework of a single division under the Ministry of Industry led to a complete reorganization of the governmental bodies dealing with petroleum matters. This reorganization was based on the presumption that the Government's responsibilities and tasks in connection with the petroleum activities fall into three main categories, viz. the central governing function, the administrative function and the business function. It was therefore considered appropriate to assign these functions to different bodies. In order to take care of the two last-mentioned functions, two new bodies were established, viz. the Petroleum Directorate (Oljedirektoratet) and the Norwegian State Oil Corporation (Den norske stats oljeselskap a.s., Statoil). The central governing function was still to rest with the Ministry of Industry, but was considerably strengthened by the establishment of a separate Oil and Mining Department. To achieve a certain geographical spread, the Petroleum Directorate and Statoil were located in Stavanger.

As a consequence of the marked growth of expertise in the Ministry during the second phase, the State Oil Council gradually lost its influence. In legal matters connected with the petroleum activities, the function of the Council as a consultative body was largely taken over by the Petroleum Act Committee. The Council was dissolved in February 1980.

3. In the current, *third* phase, which began in 1978, the organizational pattern is being even more influenced by the economic importance for Norway of the petroleum activities. At the same time a more distinct division of the public functions on safety control and on commercial aspects has been achieved.

A separate Ministry of Petroleum and Energy has been created, and most of the petroleum affairs were transferred to this body from the Ministry of Industry. There arose, however, some political debate over whether the responsibility for Statoil as well should be transferred to this new Ministry. The eventual decision to do so was based mainly on the special tasks vested in Statoil as regards implementation of the Government's oil policy and administration of the state's business interests in the petroleum activities.

On one other point, however, a division was undertaken. The Ministry of Local Government and Labour was made responsible for working environment, safety and precautionary measures on the shelf. It was considered necessary to separate these administrative functions from the more commercial functions on account of the enormous risks and economic consequences connected with the petroleum activities. This

split-up also affected the Petroleum Directorate (as well as the Maritime Directorate, see further IV.4 below) which was subjected to the authority of the Ministry of Local Government and Labour instead of that of the Ministry of Petroleum and Energy in its dealings with such issues. A proposal to avoid the double subordination by dividing the Directorate and establishing a special Continental Shelf Inspectorate to deal with working environment, safety and precautionary measures found no response.

4. The fact that only a small part of the set of regulations pertaining to the continental shelf activities has become formal law does not mean that the Storting has adopted a similarly unobtrusive stance concerning the shaping of Norway's oil policy. All major issues raised by the petroleum activities have been submitted by the Government to the Storting as special reports.¹² Moreover, the Storting has through budget measures, too, been able to hold the reins regarding the activities. It is, besides, obvious that the gradual "Norwegianization" of the petroleum activities which has taken place in recent years, e.g. through the establishment of Statoil, will enhance the Storting's possibilities of influencing the development. As will be seen below in V.2, the Storting receives an annual governmental report on Statoil's undertakings and plans for the future. This enables it to have a hand in directing the current activities of the company.

IV. THE ORGANIZATION OF THE ADMINISTRATIVE MANAGEMENT AND CONTROL OF THE PETROLEUM ACTIVITIES

1. In section III above it was shown that under the present organizational pattern there are two ministries and one directorate to which are assigned the superior administrative management and control of the petroleum activities.

The *central governing function* is primarily the province of the *Ministry of Petroleum and Energy*. With this Ministry rests the top-level political management and the formulation of the national objectives of the petroleum activities in accordance with the directives drawn up by the Storting. In connection with the implementation of the national goals, the Ministry takes on the work of allotting priorities and coordinating the tasks pertaining to various government bodies. Thus in 1971 there was established an

¹² A survey of the different reports presented to the Storting over the years is to be found in Annexes IV and V to Storting Report no. 53 (1979–80). Several of these reports are also available in English.

interministerial committee, the Coordinating Committee for the Continental Shelf. This body was to be responsible for the mutual orientation on and discussion of issues concerning more than one ministry. The committee is chaired by the Ministry of Petroleum and Energy.

The Ministry's second main task is to prepare statutes, regulations and general provisions concerning the petroleum activities, including the laying down of general guidelines for bodies to which authority has been delegated by the Ministry. There is, however, reason to note that other ministries are responsible for the preparation of such legislation, etc., as naturally comes within the spheres of these ministries in relation to the shelf activity.

Thirdly, the Ministry of Petroleum and Energy carries the chief responsibility for the level of activities on the continental shelf. This includes the opening up of new sectors for exploration for and exploitation of submarine petroleum resources, and the handling of announcements, negotiations and allocations of new production licences. Licences, approvals and consents required consequent to the granting of production licences—such as consents to land petroleum outside Norway (see above II.3) or to start production, approvals of so-called unitization agreements, and licences to lay pipelines and provide shipping facilities—are all matters for the Ministry.

The fourth important task of the Ministry of Petroleum and Energy concerns the work on economic matters arising from the petroleum activities. This comprises, first, issues of a social and socio-economic character, such as for instance the preparation of estimates of incomes, costs, investments and presumed reserves for the national budgets, market analyses, market policies, etc. Secondly, there are questions having a more direct bearing on the state revenue from the petroleum activities, such as approval of transportation rates and gas sales agreements and the fixing of norm prices (see above, II.3). The norm prices are formally set by a special body, the Petroleum Price Board, but the Price and Market Division of the Ministry of Petroleum and Energy acts as secretariat for that Board, and the Board's decisions may also be appealed to the Ministry. Finally, the Ministry has important tasks in connection with the state's own business engagement in the petroleum sector, primarily through Statoil (for further details, see section V below).

2. As mentioned before, the *Ministry of Local Government and Labour* was made responsible for safety and precautionary measures on the continental shelf as from January 1, 1979. To handle its tasks in this area, a special body, the Secretariat for Safety and Working Environment on the Conti-

mental Shelf, was established within the Working Environment Department of the Ministry.

3. The *Petroleum Directorate* is the main institution responsible for *administrative functions*. It has the final say in matters regarding exploration for and exploitation of petroleum deposits on the continental shelf, provided these matters are not subject to decisions by some other public authority. The tasks of the Directorate may be divided into three main groups. *First*, it has to *exercise control* by ensuring that the activities on the Norwegian continental shelf are carried out in accordance with current statutes and regulations, and with the conditions stipulated in the licence. This task also includes ensuring that safety regulations and approved standards of the petroleum industry are being observed, and that the activities are carried out in such a way as not to jeopardize other trade interests. The Directorate has, moreover, to see to it that the production of petroleum takes place in accordance with the instructions that have been laid down. *Secondly*, some important tasks have been assigned to the Directorate in connection with the *allocation of licences*. The Directorate itself grants reconnaissance licences and also assists the Ministry of Petroleum and Energy in its work of granting other licences, for instance for production, laying of pipelines, etc. Furthermore, the Directorate computes and collects, *inter alia*, production fees accruing under a production licence. *Thirdly*, the Directorate also has an important *planning function*. It has to collect, process and evaluate technical and geological material from the shelf activities, and on this basis to make plans for the future work. The Directorate has also to stay in touch with research institutions and inform them on continental shelf developments.

The Petroleum Directorate has a separate board, the members of which are appointed by the Ministry of Petroleum and Energy in consultation with the Ministry of Local Government and Labour. In addition to keeping the two ministries informed on continental shelf activities and submitting to them questions of particular importance or of fundamental interest, the Petroleum Directorate also prepares an annual report on its activities. This report is submitted by the Ministry of Petroleum and Energy to the Storting as a separate item. As at January 1, 1980, 246 persons were employed by the Directorate.

4. A number of other ministries also bear independent responsibilities, within their respective spheres, for control of the petroleum activities and for the issue of regulations, etc. It has been the policy to integrate the ministries' work on petroleum matters with already existing divisions and

departments and not to establish separate "petroleum divisions". There are, however, exceptions. Thus, the Ministry of Finance has a petroleum tax section in the Tax Legislation Department and an oil group in the Finance Department, both of which are working on Continental Shelf affairs.

The other ministries have been entrusted with important and comprehensive tasks. The Ministry of the Environment is responsible for a number of environmental consequences of the activities, such as for instance oil protection measures and continuous pollution. The Ministry of Social Affairs works on social security questions and problems concerning health and hygiene, the Ministry of Justice takes care of matters pertaining to rescue service and police investigation, the Ministry of Fisheries deals with the relationship between fisheries and the petroleum activities, the Ministry of Industry with the petrochemical industry and refineries, etc.

Important control functions have also been delegated to various directorates and other bodies outside the ministries. Thus, the Maritime Directorate holds the chief responsibility for control over mobile installations in the petroleum industry, such as mobile drilling platforms, accommodation platforms, crane vessels, supply vessels, etc. The Maritime Directorate, is, in the same manner as the Petroleum Directorate, dually accountable. It is answerable to the Ministry of Local Government and Labour where safety questions are concerned, but otherwise to the Ministry of Commerce and Shipping. Among other bodies to which control functions have been assigned can be mentioned the Civil Aviation Administration, the Coastal Directorate, the State Pollution Control Authority and the Telecommunications Administration.

In order to coordinate the control functions of the various bodies, two interministerial coordination committees have been established. The committee for permanent installations is chaired by the Petroleum Directorate and the committee for mobile installations by the Maritime Directorate.

V. THE ORGANIZATION OF THE STATE'S BUSINESS INTERESTS IN THE PETROLEUM ACTIVITIES

1. As noted under III.2 above, the reorganization in 1972 resulted in the assignment of the state's business functions in the petroleum sector to a separate joint-stock company. Although all shares in the company are state-owned, the company is organized under the ordinary Joint-Stock Companies Act of June 4, 1976. In accordance with this Act the company

has a board (seven members), a corporate assembly (12 members) and a general assembly. As the company stock is administered by the Ministry of Petroleum and Energy, decisions of the general assembly are made by the Minister himself or on his responsibility.

The company's objects clause is comprehensive and ambitious. It provides that the company shall, individually or by participation in and cooperation with other corporations, carry out exploration for and exploitation, transportation, refining and marketing of petroleum and products derived therefrom, as well as other pertinent activities.

Consequently, the company has gradually developed into a fully integrated oil corporation. Already from the outset the company was entrusted with important tasks on the continental shelf. In production licences allocated after 1972, the company always has at least 50 per cent equity interest, and in more than one third of these licences it has been appointed as operator. Among fields in production or under development, Statoil participates in Statfjord, Frigg and Murchison. It owns 50 per cent of Norpipe A/S, which is the owner and operator of the pipeline system from Ekofisk to Emden and Teeside. Statoil also owns, directly and through the subsidiary Norol, 70 per cent of Rafinor A/S & Co., which has a refinery at Mongstad outside Bergen. Furthermore, it has 33 per cent of the owner interests in I/S Noretyl and I/S Norpolefin, both of which conduct petrochemical activities at Rafnes outside Porsgrunn. Finally, Statoil owns about 74 per cent of the stock of Norsk Olje A/S (Norol)—the remainder of the stock is directly owned by the state. The purpose of Norol is to carry on transportation, refining, purchase and marketing of petroleum. Norol is a leading corporation in Norway in the marketing of petroleum products, which is done through a well-developed distribution network.

Statoil is expected to run at a profit from 1980, and its profit towards the end of the 1980s is expected to amount to about 2 000 million 1979 NOK per year. In January 1980, the number of company employees was about 750. By 1990 the staff is expected to be of the order of 2 500–5 000, depending on whether finds are made in fields where the company has been appointed operator or is aiming to obtain such status.

The public control over Statoil is—on paper at any rate—more extensive than for any other public corporation. The articles of the company, clause 10, provide that all matters presumed to have important political or fundamental aspects and/or to have substantial social or socio-economic effects, shall be submitted to the general assembly. Among such matters clause 10 lists plans for the forthcoming year with economic surveys, as well as semi-annual reports on the company operations. Such plans and reports are assessed by the Ministry and are also submitted to the Storting

as a separate item. Thus, both the Ministry and the Storting are in a position to influence the current activities of Statoil. At the same time this will prevent Statoil from keeping one or more steps ahead of the authorities' decisions.

3. Statoil is not an administrative body, nor does it exercise public administrative authority. On the other hand, it is evident that the company—being the state's own agent for taking care of the state's business interests in the petroleum sector—plays an important part by furnishing the Ministry with factual information, views and assessments concerning different aspects of the activities occurring on the Continental Shelf. This implies an interaction: Statoil is subject to political governing and control, but it has a substantial influence on the shaping of the conditions laid down by the authorities for its operations.

4. It should be noted that the state also holds the majority of stock in one of the other two Norwegian companies which have played a central role in the petroleum activities, viz. Norsk Hydro A/S. Unlike Statoil, however, Hydro has never been considered to be a "state oil corporation", nor has it, therefore, obtained a similar preferential position. The Hydro stock is administered by the Ministry of Industry, not by the Ministry of Petroleum and Energy.

VI. CONCLUDING COMMENTS

1. With its rapid development and major significance for the Norwegian economy, the petroleum activities have presented the Government with a number of complex tasks. The desire for comprehensive public steering and control of the activities has necessitated the establishment of entirely new bodies as well as an extension of the responsibilities of other organs. The development of such a comprehensive steering and control machinery has naturally met with difficulties. By way of conclusion I shall briefly mention a few of these.

2. One set of problems concerns the relationship between continental shelf legislation and maritime legislation.¹³ Supply ships, crane vessels,

¹³ The problems raised below have been discussed in greater detail by Krokeide, "Norsk lovgivnings anvendelse på kontinentalsokkelvirksomheten" (The application of Norwegian law to the continental shelf activities), *TfR* 1981, p. 51, and by Kaasen, "Norske myndigheters kontroll med sikkerhet i petroleumsvirksomheten" (Norwegian authorities' control with safety in the petroleum activities), *TfR* 1981, p. 82.

mobile drilling platforms, etc., may be working now on one country's shelf now on another. They may therefore be subject to registration and control authorities in a country other than that on whose Continental Shelf they are working at the moment. The control of these vessels has consequently given rise to a number of questions for Norwegian authorities. First, it was necessary to ascertain to what extent Norway had a right to regulate matters respecting such foreign vessels when they were at work on the Norwegian continental shelf. An answer to this question would have to be found in international law through an interpretation of the Continental Shelf Convention. Secondly, it was necessary to consider whether Norway should exercise in full the authority thus warranted in international law. To begin with, Norwegian authorities were very ambitious in their efforts to subject these vessels to Norwegian supervision. As time passed, however, they had to concede that considerable problems in the implementation of such control existed. Regardless of whether the vessels were Norwegian or foreign, a third question arose, viz. which ministry should be responsible for exercising Norwegian control in this field. The choice was primarily between the Ministry of Industry and—as from 1978—the Ministry of Petroleum and Energy and the Ministry of Local Government and Labour as “continental shelf ministries” and the Ministry of Commerce and Shipping as “the maritime ministry”. A further question was to clarify whether the direct control and regulation should be assigned to the Petroleum Directorate or the Maritime Directorate. And, as a final issue so far as vessels registered in Norway were concerned, the question arose which administrative bodies should be responsible for the control when the vessels operated outside the Norwegian shelf.

Without going into detail regarding the various aspects of the problems outlined above, it may be said in general that most of the difficulties have now been resolved. As indicated below, however, I believe it is realistic to expect that changes and adjustments in the current arrangements and the distribution of work will occur in the future also.

3. The second set of problems is connected with the issues just mentioned. Since the responsibility for the control on the continental shelf is assigned to or delegated to so many different bodies, it is obviously of major importance to define their powers appropriately and at the same time to ensure that the body which is left with the responsibility has the necessary means (in a broad sense) to implement an effective control. The division of responsibilities is subject to a current evaluation based on the need for effective and strong supervision, and there are a number of examples of adjustments or reallocations of responsibilities. Considering the comprehen-

sive changes that were made in 1978, it is justifiable to assume that the main lines of policy have now been determined, even though theoretically the double subordination of the Petroleum Directorate (and of the Maritime Directorate) may be considered a rather inappropriate solution and would seem, at least to an outsider, to create complex practical problems. It is quite conceivable that the analysis of the system as a corollary to the "Alexander L. Kielland" platform disaster¹⁴ would once again encourage the idea of a separate Continental Shelf Inspectorate (see above, III.3).

Another aspect of the division of responsibilities is the importance of ensuring the harmonization of the regulations and control measures instituted by one body within that body's sphere with measures instituted by other bodies in their fields. The conflict is most clearly apparent where there are overlapping regulations aimed at the same issues. However, of more practical interest are cases where the "goal areas" for regulations or measures differ, but where the measures of one body may influence or make more effective the control exercised by other bodies. As a rule, harmonization conflicts have been resolved with the aid of the coordinating committees established for permanent and mobile installations (see above, IV.4). There are, however, also cases where such conflicts have been solved by direct "agreements" between administrative bodies, for instance in such a way that two bodies coordinate their control.

4. A cue for the last set of problems I propose to discuss might be the building up of expertise and the personnel drain. On the threshold of the "oil age" expertise in petroleum matters in Norwegian administrative bodies was very limited. Consequently, achievement of the political goal of complete public control of the petroleum activities required a substantial effort. At the outset, however, a certain reluctance could be observed, something which might be attributed to the uncertainty felt by the authorities about the future importance of the activities for Norway and the Norwegian economy. Thus, some caution was shown in the establishment and strengthening of bodies that would become central *if* Norway really were to become an oil nation. Consequently, the authorities lagged behind for quite some time in their supervision and governing compared to the development. Nor did they always undertake the long-term planning that such an important industry would need.

¹⁴ On March 27, 1980, the mobile accommodation platform "Alexander L. Kielland" capsized on the Edda field. One of its legs broke off, and this caused the platform to tip over and sink; 123 people died in the disaster. The Government immediately appointed an independent board of inquiry to investigate the causes of the disaster and make recommendations for the future. The report was published in March 1981.

The competition from private trade and industry, and from the oil companies in particular, also complicated the work of building up the expertise in the public sector. The fact that wage conditions and promotion opportunities were less favourable also impaired the chances of competing for the best qualified personnel. Gradually yet another factor came to light—namely, the difficulties public bodies had in keeping competent personnel from leaving. One example is the Petroleum Directorate, which in 1979 lost 35 of its employees (14 per cent of the total staff).¹⁵ Nearly half of them went into the oil industry. It may seem as if central administrative bodies—e.g. the Ministry of Petroleum and Energy and the Petroleum Directorate—are serving as training institutions for the oil companies. Although the “exodus” can hardly be said to have had only negative consequences, seen from the point of view of the authorities, it is still evident that in the long run such a drain cannot be tolerated, in view of the desire to maintain the comprehensive public steering and control on which there so far has been political consensus.

¹⁵ The information is found in the annual report of the Petroleum Directorate for 1979. The drain has continued into 1980 with ever-increasing speed. The Ministry of Local Government and Labour has introduced measures to make the jobs in the Directorate more attractive, for instance by raising the pay. It remains to be seen, however, whether these measures will prove adequate to solve the problems.