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Agreement

between the Government of the United Kingdom of Great
Britain and Northern Ireland and the Government of the
Kingdom of Norway relating to the amendment of the
Agreement of 21 November 1985 relating to the Transmission
by pipeline of Heimdal Liquids to the United Kingdom

Oslo, 1 November 2004

[The Agreement entered into force on 6 March 2006]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
April 2007*

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE KINGDOM OF NORWAY RELATING TO THE
AMENDMENT OF THE AGREEMENT OF 21 NOVEMBER 1985¹ RELATING
TO THE TRANSMISSION BY PIPELINE OF HEIMDAL LIQUIDS TO THE
UNITED KINGDOM**

The Agreement of 21 November 1985 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway relating to the Transmission by Pipeline of Heimdal Liquids to the United Kingdom shall continue in force subject to the amendments incorporated into the revised text which is set out in the Schedule hereto.

The revised text set out in the Schedule hereto shall facilitate the transmission of petroleum liquids won from the Continental Shelf appertaining to the Kingdom of Norway or the Continental Shelf appertaining to the United Kingdom of Great Britain and Northern Ireland in the Heimdal-Brae Pipeline, the Brae Pipeline System and the Forties Pipeline System and the construction and operation of any pipeline which is to be connected to the Heimdal-Brae Pipeline (other than an inter-connecting pipeline within the meaning of the Framework Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway relating to the Laying, Operation and Jurisdiction of Inter-connecting Submarine Pipelines of 25 August 1998)².

The two Governments shall inform each other when all necessary requirements for entry into force of this Agreement have been fulfilled. This Agreement shall enter into force on the date on which the later of the two notifications is received.

In witness whereof the undersigned, duly authorised by their respective Governments, have signed this Agreement.

Done in duplicate at Oslo this 1st day of November 2004 in the English and Norwegian languages, both texts being equally authoritative.

For the Government of the
United Kingdom of Great Britain and
Northern Ireland:

For the Government of the
Kingdom of Norway

MARIOT LESLIE

PER LUDVIG MAGNUS

¹ Treaty Series No.39 (1987) Cm 201

² Treaty Series No.9 (2003) Cm 5762

SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF NORWAY RELATING TO THE TRANSMISSION BY PIPELINE OF HEIMDAL LIQUIDS TO THE UNITED KINGDOM

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the "Government of the United Kingdom") and the Government of the Kingdom of Norway;

Mindful of the High Seas Convention of 1958¹, the Continental Shelf Convention of 1958² and the United Nations Convention on the Law of the Sea of 1982³;

Recalling that Articles 58, 79, 86 and 87 of the United Nations Convention on the Law of the Sea of 1982 define the legal regime of submarine pipelines in the context of that Convention as a whole, and that Article 79 of that Convention is at the core of the existing regime covering pipelines on the continental shelf;

Reaffirming that matters not regulated by the United Nations Convention on the Law of the Sea of 1982 continued to be governed by the rules and principles of general international law;

Mindful further that particular pipelines may be subject to special agreements, which may or may not make provisions identical with international law;

Desiring to regulate certain questions in relation to the transmission by pipeline of Heimdal Liquids to the United Kingdom;

Have agreed as follows:

ARTICLE 1

Transmission to the United Kingdom

(1) Subject to the requirements of safety, neither the Government of the United Kingdom nor the Government of the Kingdom of Norway shall object to the transmission to the Kerse of Kinneil in Scotland through the Heimdal-Brae

¹ Treaty Series No.5 (1963) Cmnd 1929

² Treaty Series No.39 (1964) Cmnd 2422

³ Treaty Series No.81 (1999) Cm 4524

Pipeline, the Brae Pipeline System and the Forties Pipeline System of Heimdal Liquids.

(2) The Government of the United Kingdom shall, in accordance with and subject to the laws of the United Kingdom, grant any necessary authorisations and give any necessary consents for the construction of the Heimdal-Brae Pipeline and for its use for the purpose of the transmission of Heimdal Liquids as aforesaid.

(3) A copy of any authorisation granted and any consent given pursuant to paragraph (2) of this Article shall be made available to the Government of the Kingdom of Norway.

(4) A copy of any authorisation granted and any consent given by the Government of the Kingdom of Norway for the construction and use of the Heimdal-Brae Pipeline shall be made available to the Government of the United Kingdom.

ARTICLE 2

Use of the Heimdal-Brae Pipeline

(1) The two Governments shall take whatever measures are open to them to ensure that the owner of the Heimdal-Brae Pipeline establishes agreements to regulate the use of that pipeline in accordance with this Agreement. Either Government may request a copy of any agreement entered into pursuant to this paragraph.

(2) The two Governments shall encourage the optimal use of the Heimdal-Brae Pipeline.

(3) The two Governments shall take whatever measures are open to them to ensure that the owner of the Heimdal-Brae Pipeline includes in any agreement required under paragraph (1) of this Article provisions regarding priorities in that pipeline for the transport of Heimdal Liquids deriving from different sources, while ensuring that royalty taken in kind is given the same priority of transport as the Heimdal Liquids from the field from which the royalty is taken in kind.

(4) In furtherance of the aim set out in paragraph (2) of this Article each Government shall take such measures as may be available to it to assist persons wishing to connect a pipeline with or otherwise obtain access to the Heimdal-Brae Pipeline to make use of any spare capacity, provided that any such connection or access shall not prejudice the efficient operation of that pipeline for the transmission of Heimdal Liquids.

(5) Where a person (hereinafter referred to as "the applicant") desires to use spare capacity in the Heimdal-Brae Pipeline, but is unable to agree fair commercial terms

for the transport of his petroleum with the owner of that pipeline, the applicant may apply for connection or access to:

- (a) the Norwegian Government, in a case where it is proposed that the point of entry of the petroleum into the Heimdal-Brae Pipeline should be on the Continental Shelf appertaining to the Kingdom of Norway; or
- (b) the United Kingdom Government, in a case where it is proposed that the point of entry of the petroleum into the Heimdal-Brae Pipeline should be on the Continental Shelf appertaining to the United Kingdom.

(6) When an application is made according to paragraph (5) of this Article, the Government to which the application is made shall consult the other Government with a view to agreeing a mutually acceptable response to such an application. The two Governments shall, subject to paragraph (3) of this Article, apply the principles of non-discrimination and fairness for all parties concerned and address fully and take proper account of:

- (a) the spare capacity available in the Heimdal-Brae Pipeline, allowing for the owner's existing contractual obligations and usage which the owner may reasonably be expected to require;
- (b) the technical compatibility of petroleum proposed for transport through the Heimdal-Brae Pipeline with the petroleum contracted for transport therein;
- (c) relevant economic factors including costs relevant to the contract proposed, comparable tariffs and other conditions applied to the use of the Heimdal-Brae Pipeline;
- (d) the need not to endanger security of supply or prejudice safety and environmental measures;
- (e) the technical capability and financial viability of the applicant;
- (f) other relevant matters raised by either Government.

(7) If, after such consultation, the Government to which the application is made is satisfied that capacity in the Heimdal-Brae Pipeline has been unreasonably refused or that fair commercial terms have not been offered to the applicant, that Government shall take reasonable account of the outcome of such consultation and require the owner to convey the applicant's petroleum subject to such terms and conditions as it may specify. Following the consultation provided for in paragraph (6) of this Article, and at least 21 days before conveying its decision to the applicant, that Government shall communicate to the other Government the response it intends to make to the

applicant. On application by the applicant the other Government shall also take any measures which are necessary to give effect to the agreed response to the application.

(8) If the two Governments are unable to agree a mutually acceptable response to an application, either Government shall have the right to submit to arbitration in accordance with Article 14 the question of whether or not the other Government has met its obligations under this Article.

ARTICLE 3

Grants of authorisations in respect of the construction and operation of pipelines connected to the Heimdal-Brae Pipeline

(1) Subject to compliance with any applicable national laws, the Governments shall grant any necessary authorisations and give any necessary consents for the construction and operation of any pipeline which is to be connected to the Heimdal-Brae Pipeline.

(2) A copy of any authorisation granted or any consent given pursuant to paragraph (1) of this Article by either Government shall be made available to the other Government.

(3) The construction and operation of any pipeline which is connected to the Heimdal-Brae Pipeline which is an inter-connecting pipeline within the meaning of the Framework Agreement shall be subject to the provisions of that Agreement.

ARTICLE 4

Termination of Authorisation

In the event of the expiration, surrender or revocation of any authorisation relating to the pipeline or any of the pipeline systems referred to in Article 1, the Government of the United Kingdom shall ensure that if the two Governments are agreed that there is a reasonable need for the continued use and operation of the pipeline or pipeline system in question having regard, *inter alia*, to the quantity of Heimdal Liquids required to be transmitted and the economics of continuing such use and operation, such use and operation is continued in accordance with the terms of this Agreement subsisting immediately before such expiration, surrender or revocation. If the Governments are so agreed, the Government of the United Kingdom shall take one of the following steps, as appropriate:

- (a) in accordance with and subject to the laws of the United Kingdom, issue a new authorisation in replacement of the authorisation which has

expired or been surrendered or revoked; or

- (b) take such other action to continue such use and operation as the two Governments may agree.

ARTICLE 5

Transportation from the United Kingdom

(1) In respect of Heimdal Liquids won from the Continental Shelf appertaining to the Kingdom of Norway, the two Governments recognise that the owners of those Heimdal Liquids shall under normal circumstances be entitled to stabilised crude oil, and shall under special circumstances receive other entitlements determined by an allocation procedure and a quality adjustment mechanism to be agreed between the owners of Heimdal Liquids and the owners respectively of the Brae Pipeline System and the Forties Pipeline System.

(2) The Government of the United Kingdom shall place no obstacles in the way of transportation from the United Kingdom of such entitlements referred to in paragraph (1) of this Article.

ARTICLE 6

Charges

(1) In respect of Heimdal Liquids won from the Continental Shelf appertaining to the Kingdom of Norway and subject to paragraph (2) of this Article, no customs duties or other charges shall be levied on the petroleum transmitted to and subsequently taken from the United Kingdom under this Agreement whether in the form of Heimdal Liquids or, in pursuance of Article 5, of stabilised crude oil or other entitlements except for fees, costs or other charges, assessed likewise on the owners of the Brae Pipeline System and the owners of the Forties Pipeline System, such as:

- (a) any normal fees, tolls, dues or other operating charges for facilities used on the Continental Shelf appertaining to the United Kingdom and in the United Kingdom, and
- (b) any normal fees, tolls, dues, local authority rates or any other charges levied under present legislation, or any identical or substantially similar charges which may be imposed in the future in addition to or in place of the existing charges payable by commercial or industrial undertakings in respect of plant (including pipelines) whether floating or not.

(2) Paragraph (1) of this Article shall not apply to any customs duties or charges having equivalent effect which may be levied in pursuance of Community Law. If any such duties or charges shall be levied, the two Governments shall meet to discuss a solution to any problem caused thereby.

ARTICLE 7

Taxes

Profits, gains and capital in respect of:

- (a) the transmission of Heimdal Liquids through the Heimdal-Brae Pipeline;
- (b) the Heimdal-Brae Pipeline; and
- (c) the disposal of the Heimdal-Brae Pipeline or an interest therein

shall be taxed in accordance with the laws of the United Kingdom and the Kingdom of Norway respectively, including the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital¹ signed at London on 12 October 2000 and any Protocol or Protocols to that Convention or any Convention replacing that Convention as may be signed in the future.

ARTICLE 8

Inspection and Metering

(1) Subject to paragraph (2) of this Article the Government of the United Kingdom and the Government of the Kingdom of Norway shall take such steps as are available to each of them under its legislation in force from time to time to secure for inspectors appointed by the other access to the relevant parts of the Brae Pipeline System, the Forties Pipeline System, the Heimdal-Brae Pipeline and any pipeline to which Article 3(1) applies and, for measurement purposes, the relevant parts of the Kerse of Kinneil plant, the Dalmeny tank farm and the export terminal, and production of relevant information to enable those inspectors to satisfy themselves that the fundamental interests of their Government in regard to safety, petroleum production and measurement are met.

(2) Each Government shall have sole responsibility for all inspections of the

¹ Treaty Series No.26 (2001) Cm 5136

systems and pipeline referred to in paragraph (1) of this Article situated on the Continental Shelf appertaining to it and of the operation, maintenance and repair of the same; if, however, in the absence of an inspector of one Government at or on such system or pipeline for the inspection of which that Government has such responsibility it appears to an inspector of the other Government that there is an imminent danger to the life of a person or a substantial risk of an accident involving serious pollution, that inspector shall immediately inform the person in charge of the system or pipeline and the competent authorities of the other Government of the danger.

(3) The Government of the United Kingdom and the Government of the Kingdom of Norway shall, in accordance with and subject to their respective laws, require the respective owners of Heimdal Liquids to ensure that the quantity and quality of Heimdal Liquids which flow through the Heimdal-Brae Pipeline for transmission to the Kerse of Kinneil are measured and that the measurement system employed for that purpose is compatible with the measurement systems in the Brae Pipeline System and the Forties Pipeline System and is properly installed and maintained.

(4) The provisions of this Article shall also apply, so far as may be appropriate, to the Heimdal-Brae Pipeline during the design, fabrication and installation of that pipeline.

(5) The competent authorities of the two Governments shall consult with each other to review the implementation of this Article.

ARTICLE 9

Operator

(1) The operator of the Heimdal-Brae Pipeline shall be a company which shall be a Norwegian legal entity incorporated under Norwegian law and having its domicile in Norway. The company shall have its central place of business in Norway, but shall maintain a branch in the United Kingdom for the sole purpose of meeting regulatory requirements in accordance with this Agreement.

(2) Any change of operator of the Heimdal-Brae Pipeline shall require the approval of both the Governments.

ARTICLE 10

Jurisdiction

(1) Any pipeline to which Article 3(1) applies, including their associated maintenance and control equipment, situated on the Continental Shelf appertaining to the Kingdom of Norway shall be under the jurisdiction of the Kingdom of Norway, and the Brae-A platform and pipelines linked to it and any pipeline to which Article 3(1) applies, including their associated maintenance and control equipment, situated on the Continental Shelf appertaining to the United Kingdom shall be under the jurisdiction of the United Kingdom.

(2) Any matter with respect to the construction, operation and safety of the Heimdal-Brae Pipeline or to any pipeline to which Article 3(1) applies shall:

- (a) to the extent that the pipeline is located on the Continental Shelf appertaining to the Kingdom of Norway, be subject to regulation by the Government of the Kingdom of Norway;
- (b) to the extent that the pipeline is located on the Continental Shelf appertaining to the United Kingdom, be subject to regulation by the Government of the United Kingdom.

(3) The competent authorities of the two Governments shall consult with each other to review the implementation of paragraph (2) of this Article.

(4) Nothing in this Agreement shall be interpreted as affecting the jurisdiction which either State has under international law over the Continental Shelf which appertains to it.

(5) Nothing in this Agreement shall be deemed to prejudice the views of either Government as to any question concerning the law of the sea.

(6) In this Article "construction" includes design, fabrication and installation, and "operation" includes maintenance, repair and decommissioning.

ARTICLE 11

Telecommunications

The establishment, operation and control of equipment for communications in connection with the transmission of Heimdal Liquids shall be subject to arrangements between the competent telecommunications authorities.

ARTICLE 12

Confidential Information

(1) Where an owner of Heimdal Liquids or an owner of the pipeline or a pipeline system referred to in Article 1 or Article 3(1) has supplied information to its Government, subject to lawful restrictions as to disclosure and use, that Government may, to the extent that this does not conflict with restrictions as to disclosure and use, disclose such information to the other Government. The Government receiving such information from the other Government shall treat the information as confidential and shall not further disclose or use it inconsistently with such restrictions. However, each Government may at any time make use of the information for the purposes of preparing general reports on activities in respect of the transmission through the Heimdal-Brae Pipeline of Heimdal Liquids.

(2) Copies of all such general reports published by one Government shall be transmitted to the other Government not later than the date of publication.

ARTICLE 13

Consultative Commission

A Commission shall be established of at least four persons of whom each Government shall appoint at least two persons for the purpose of facilitating the implementation of this Agreement. The functions of the Commission, which shall include that of considering matters referred to it by the Governments, and its procedures shall be subject to such further arrangements as may be approved by the two Governments from time to time.

ARTICLE 14

Settlement of Disputes

(1) Any dispute about the interpretation or application of this Agreement shall be resolved through the Commission referred to in Article 13 or by negotiation between the two Governments.

(2) If any such dispute cannot be resolved as provided for in paragraph (1) of this Article or by any other procedure agreed to by the two Governments, the dispute shall be submitted, at the request of either Government, to an Arbitral Tribunal composed as follows:

Each Government shall designate one arbitrator, and the two arbitrators so designated

shall elect a third, who shall be Chairman and who shall not be a national of or habitually reside in the United Kingdom or in the Kingdom of Norway. If either Government fails to designate an arbitrator within three months of a request to do so, either Government may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within one month of the designation or appointment of the second arbitrator, the third arbitrator has not been elected. The Tribunal shall determine its own procedure, save that all decisions shall be taken, in the absence of unanimity, by a majority vote of members of the Tribunal. The decisions of the Tribunal shall be binding upon the two Governments and shall, for the purposes of this Agreement, be regarded as agreements between the two Governments.

ARTICLE 15

Definition

- (1) For the purpose of this Agreement, unless the context otherwise requires:
 - (a) "Heimdal-Brae Pipeline" means the eight inch nominal diameter pipeline which will extend from the attached pig launcher located on the Heimdal platform situated on the Continental Shelf appertaining to the Kingdom of Norway to the attached pig receiver located on the Brae-A platform situated on the Continental Shelf appertaining to the United Kingdom, together with associated operating, protective and control facilities, pipeline pumps, metering devices and communication system.
 - (b) "Brae Pipeline System" means the thirty inch diameter pipeline which extends from the attached pig launcher on the Brae-A platform situated on the Continental Shelf appertaining to the United Kingdom to the attached pig receiver on the Forties FC platform situated on the Continental Shelf appertaining to the United Kingdom, together with associated operating, protective and control facilities, pipeline pumps, metering devices and communication system.
 - (c) "Forties Pipeline System" means:
 - (i) the thirty-six inch diameter pipeline which extends from the attached pig launcher located on the Forties FC platform situated on the Continental Shelf appertaining to the United Kingdom via the Forties Unity platform to the attached pig receiver located in the Cruden Bay booster station in Scotland together with its associated operating, protective and control facilities, pipeline pumps, metering devices and communication

system; and

- (ii) the thirty-six inch diameter pipeline which extends from the attached pig launcher located in the Cruden Bay booster station to the attached pig receiver located in the Kerse of Kinneil in Scotland including all associated operating, protective and control facilities, pipeline pumps, metering and control devices located at the Cruden Bay booster station, and the intermediate booster stations at Netherley, Brechin and Balbeggie in Scotland.
 - (d) "Framework Agreement" means the Framework Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway relating to the Laying, Operation and Jurisdiction of Inter-connecting Submarine Pipelines of 25 August 1998.
 - (e) "Heimdal Liquids" means any petroleum, other than natural gas, won from any field on the Continental Shelf appertaining to the Kingdom of Norway or from any field on the Continental Shelf appertaining to the United Kingdom and which enters the Heimdal-Brae Pipeline.
- (2) The headings to the Articles shall not be used to establish the scope or meaning of all or any part of the text to this Agreement and shall have no legal effect.

ARTICLE 16

Entry into Force and Duration

- (1) The two Governments shall inform each other when all necessary requirements for entry into force of this Agreement have been fulfilled. This Agreement shall enter into force on the date on which the later of the two notifications is received.
- (2) The two Governments may amend or terminate this Agreement at any time by agreement.



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