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Application of Norwegian and Russian Legislative Basis during Collaborative Development of Transboundary Hydrocarbon Fields

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Abstract:

The article deals with the investigation of legal and regulatory aspects for the development of transboundary oil and gas fields by Russia and Norway.

A detailed analysis has been conducted on the Treaty between the Russian Federation and the Kingdom of Norway concerning maritime delimitation and cooperation in the Barents Sea and the Arctic Ocean in terms of its contents, legal obligations of the parties, and terms in use.

The conceptual framework has been studied; Russian and Norwegian experience of development of different kinds of transboundary production fields has been described. A review on Russian and Norwegian legislation regarding the development of such fields has been presented.

As a result, conclusions have been made and recommendations have been given on improvement of the legislation of the Russian Federation when developing transboundary hydrocarbon fields taking into account Russian and Norwegian experience.

Keywords: Legislation, transboundary production fields, oil and gas, unitization, governmental regulation, Russian Federation, The Kingdom of Norway, Barents Sea.

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1. Introduction

Currently development of hydrocarbon fields on the shelf plate is one of the priority areas of world oil and gas sector development. According to many specialists, maintaining the growth speed of hydrocarbon production in Russia is planned to be accomplished through development of continental shelf, including the arctic one.

An important step towards driving the works on peaceful development of the arctic zone was signing the Treaty between the Russian Federation and the Kingdom of Norway concerning maritime delimitation and cooperation in the Barents Sea and the Arctic Ocean (Delimitation Treaties Infobase, 2010). The Treaty consists of articles and two appendixes which contain the following information: the coordinates of the line of maritime delimitations, the coordinates and description of the special region, fundamentals of collaboration in the fishing industry, detailed description of fishing issues, possibilities of making amendments to the Appendixes to the Treaty, correlation of the Treaty and other international documents, order of the Treaty coming into effect. The Treaty regulates relations between the parties when it comes to development of hydrocarbon fields in the shelf of Barents Sea and the Arctic Ocean.

For the purposes of the investigation we have studied conceptual framework, legislation of both countries regulating development of oil and gas fields, Russian and Norwegian experience of developing transboundary production fields.

2. Literature Review

In the 19th and 20th centuries many European and American countries had passed various laws to regulate the development of transboundary production fields. Many international authors have dedicated their works to investigating economic and legal issues of development of transboundary production fields (Bastida *et. al.*, 2006; 2007; Willheim, 2009). Russian authors have not yet given this issue enough attention. A number of such specialists (Kolosov and Krivchikova, 2009; Mareeva, 2006; Mareeva and Dyachkova, 2002; Rubtsova, 2013) have dedicated their works to studying the definition of transboundary production fields and have looked into the features and mechanisms of their development.

3. Data Analysis Procedure, Results and Discussion

3.1 Russian legislation that regulates the development of hydrocarbon fields, including transboundary ones

The foundation of the current Russian subsurface resources management system has been laid on February 21, 1992, when the RF Law No. 2395-1 (1992) on Subsurfaces. This law has established the grounds of the current subsurface resources management system and its basic legal definitions.

Today within the territory of the Russian Federation around 100 legal and regulatory acts are in effect to regulate legal relations regarding the search, prospection, and extraction of hydrocarbon on land and in the shelf of the Russian Federation. As for the regulation the development of transboundary production fields, the only document directly relating to their development is recommendations on the account of reserves in the cross-border and transboundary subsurface territories developed by Federal state institution State Commission on Mineral Resources Reserves.

If we look at the experience of developing transboundary production fields by Russia, we will see that it is almost absent. Thus, on September 7, 2010 the first and so far only agreement between the government of the Russian Federation and the government of the Republic of Kazakhstan on collaborative activity of geological studies and investigation of Imashevskoye transboundary gas-condensate field has been signed (Conventions.ru, 2010). Currently though, the development of the production field is at the stage of investigation, and the mechanism of its further development is not clear.

3.2 Norwegian legislation that regulates the development of hydrocarbon fields, including transboundary ones

In Norway a big number of legal and regulatory acts are in force to regulate the activity of oil and gas companies. The administrative responsibility for state policy creation on the Norwegian continental shelf is given to the Ministry of Oil and Energy. Directly subordinate to the Ministry of Oil and Energy is Oil Directorate which also plays a significant role in the oil and gas industry.

In accordance with the Norwegian legislation, the ownership right for maritime oil and gas fields and the right to manage oil and gas resources belong to the state. Consequently, oil and gas companies are not allowed to perform activities on the continental shelf in their interests without the approval of the Norwegian government, particularly without obtaining the license. The founding legal and regulatory act regarding the licensing in Norway is the 1996 Law on performing oil and gas activity. Direct government participation in the development of oil and gas resources ensures economic revenue from production fields and control over the main share (around 80%) of oil income for the Norwegian state. Today the basis for the oil and gas legislation of Norway is provided by the Law on Oil Activity which was passed on March 22, 1985.

In Table 1 we present main transboundary production fields Norway, as well as the characteristics of unitization agreements on these fields – agreements between hydrocarbon development license owners on the same subsurface territory the purpose of which is collaborative rational development of this territory as a single object.

Table 1: Characteristics of Transboundary Production Fields of Norway

Production field, its location	Agreement, participant countries, operator	Type of production field, reserves	Principles of production field development	Specifics
Frigg, North Sea shelf	Agreement on Frigg production field signed on May 10, 1976 between Great Britain and Norway. The operator is (Elf Aquitaine)	Oil and gas, initial industrial reserves of gas are 225 bln m ³ ; oil are 6 mln t	The field was developed as a single object by a single operator according to the development plan approved by both parties. The extracted resources were divided depending on the quotes according to the volumes of reserves on either side of the delimitation line: 39.18% Great Britain, 60.82% Norway	The agreement is the most typical example of international unitization of an earlier conducted delimitation of a continental shelf. Mothballed on October 26, 2004
Statfjord, North Sea shelf	The Statfjord agreement was signed in 1980 between Great Britain and Norway. The operator is Statoil Hydro (until 1987 – Mobile)	Oil and gas, initial oil reserves are around 500 mln t, natural gas reserves are – 200 bln m ³	Single operator assigned by agreement of the parties, single investigation and extraction plan. The extracted resources are divided depending on the quotes according to the volumes of reserves on either side of the delimitation line. The bigger part is on the territory of Great Britain	One of the oldest large oil fields of Northern Europe. It is assumed that the production field will have been under exploitation until 2025
Murchison, North Sea shelf	The Murchison agreement was signed in 1980 between Great Britain and Norway. The technical operator is British company CNR	Oil and gas field	Single operator assigned by agreement of the parties, single investigation and extraction plan. The extracted resources are divided depending on the quotes according to the volumes of reserves on either side of the delimitation line: 21.875% Norway, 78.125% Great Britain	-

Legal regulation of transboundary hydrocarbon field development in Norway started in 1976 when the agreement on collaborative development of Frigg production field was signed between the governments of Great Britain and Norway. According to these agreements, the license owners must develop a single hydrocarbon investigation and extraction plan.

3.3 Analysis of legal basis for the Treaty concerning maritime delimitation and cooperation in the Barents Sea and the Arctic Ocean

The Russian version of the Treaty on delimitation (Delimitation Treaties Infobase, 2010) contains such terms: transboundary production field, production field usage as a single whole, Agreement on unification), Agreement on collaborative usage, operator of production field. Article 5 of the Treaty specifies that if the production site spread beyond the delimitation line, the parties refer to the Appendix 2 of the Treaty, i.e. consider such field a transboundary one. As a rule, the term transboundary production field is used in relation to hydrocarbon raw material fields because under certain physical, chemical, and geological conditions, oil and gas can cross the boundaries established on the surface due to the movement in the rock formations (Cherepovitsyn, 2016).

Some of the international and Russian specialists hold to the opinion that transboundary production field is a production field crossed by state boundaries (Zikiryakhodzhaev, 2006; Keto, 1978; Vylegzhanina, 2007). Other researchers give this term a more complete definition. Thus, according to their approach (Mareeva, 2003; Keto, 1978), transboundary production field is a production field crossed by a state, internal administrative, license (when issuing the license to several subsurface mineral resources users for investigation and extraction of the same production field) and other boundaries.

To develop transboundary production fields, international practice uses the term unitization which means a form of subsurface mineral resources user unification in for collaborative usage of the subsurface resources. If we talk about the Treaty on delimitation, Article 5 provides transboundary production field usage as a single whole. However, the meaning of production field development as a single whole in the context of Russian and Norwegian legislation is not clarified in the Treaty. At the same time, according to the Russian interpretation of the Treaty, to develop a transboundary production field as a single whole, it is necessary for the parties (Russia and Norway) to sign the Agreement on unification.

Article 1 of the Appendix 2 of the Treaty mentions the following information that is to be covered in the Agreement on unification: geographic coordinates of the production field; geological, geophysical, and geographic specifics and characteristics of the production field; information on the total volume of the hydrocarbon reserves and methodology used to calculate the reserves; rights and obligations of the parties; methods of settling disputes in the shortest possible terms.

At the same time, according to the Treaty on delimitation, the parties have the right to demand from legal bodies that have the rights for development and investigation of the respective part of a transboundary production field to sign an Agreement on collaborative usage to regulate the issues of transboundary hydrocarbon field usage as a single whole according to the Agreement on unification. In the Russian

literature, the Agreement on collaborative usage has several variants of translation, too. The parties of the Treaty must also demand from the legal bodies that have the rights for development and investigation of the respective part of a transboundary production field to assign the production field operator.

According to the Norwegian practice, the production field operator is assigned from the legal bodies that owns a license and possesses such competences that would allow developing the production field in the most efficient way. If we look at joint venture, the Norwegian Law on Oil Activity stipulates that a joint venture operator is a member who performs “everyday oil activity management” on behalf of the licensees.

The Russian legislation only contains the term new maritime production field operator. In the rest of the cases, in practice, under production filed operator we understand a company which owns a license for production field development. The exceptions exist for joint ventures where the operator can be assigned from legal bodies owning a bigger share or for the legal bodies assigned as such based on the decision of the founding parties (Vylegzhanina, 2007).

In view of the mentioned above we can assume that there is difficulty in applying terms and definitions when performing collaborative development of transboundary production fields because of the absence of a common approach to the interpretation of the definitions of the Treaty and the legislations of the two countries.

4. Conclusions

1. Russian legislation regarding the development of hydrocarbon fields is yet to be formulated. Virtually all legal and regulatory acts have a universal nature and regulate legal relations within subsurface resources usage as a whole without taking into account the specifics of the sector. Conceptual framework which forms the basis of the Treaty on delimitation is virtually not covered in Russian legal and regulatory acts. Some legislative acts only indirectly use the terms that belong to the problematic of the research. At the same time, the experience of development of transboundary production fields in Russia practically does not exist.

2. Unlike Russia, Norway has a fully formulated legislation regulating the development of oil and gas fields. The country has passed special laws on oil and gas, and rational usage of energy resources. The conceptual framework which forms the basis of the Treaty on delimitation is covered in several legal and regulatory acts and is present in final acts on collaborative development of transboundary production fields with Great Britain which have been successfully functioning for over 40 years. The mechanism of development of transboundary hydrocarbon fields provided by the Treaty between the Russian Federation and the Kingdom of Norway concerning maritime delimitation and cooperation in the Barents Sea and the Arctic

Ocean reflects mostly the legislation and experience of Norway rather than Russia. Due to different legislative basis, different interpretation of the same terms is possible. We believe it especially concerns the assignation of the production field operator.

3. To perform successful development of transboundary production fields, it is necessary for Russia to develop legal standards establishing the proper procedure and grounds of granting the usage of transboundary production fields, as well as the specifics of their development. At the first stage of creating a legal and regulatory basis, it is worthwhile to pass a law where the conceptual framework of the issue under investigation would be clearly outlined with its further addition.

4. In the case of signing an Agreement on the development of some production field, it is worthwhile taking the legislation and practical experience of Norway as a basis with the consideration of the specifics of Russian oil and gas sector functioning and regulation.

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