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# The administration of oil and gas exploration and production licences in the Danish section of the North Sea

# 1. Introduction and conclusion

## 1.1. Purpose and conclusion

1. This report concerns the Danish Ministry of Climate, Energy and Utilities and the Ministry of Taxation's management of Danish oil and gas exploration and production licences in the Danish section of the North Sea. The study was initiated in December 2020, at the request of the Danish Public Accounts Committee, and covers the ministries' administration in the period from 2016 to 2020.

2. The Public Accounts Committee wanted Rigsrevisionen to examine whether the Ministry of Climate, Energy and Utilities had granted exploration and production licences in the North Sea in accordance with then current legislation and decision processes, whether the ministry's supervision of the licensees had been satisfactory, and how the authorities had administered taxation of the North Sea oil revenues. The Public Accounts Committee's basis for the request was, among other things, the fact that the Danish Subsoil Act sets rules for the appropriate use and exploitation of the Danish underground and its natural resources.

3. The Danish Subsoil Act governs the exploitation of the underground in the North Sea and sets out the framework for granting and transfer of licences, specific subsoil activities and the supervision that is intended to ensure compliance with the legislation. The Danish Energy Agency under the Ministry of Climate, Energy and Utilities has responsibility for the administration of the subsoil act and is supervising the 21 oil and gas producing fields in the North Sea.

4. In 2003, the Danish government and A.P. Moller – Maersk (in the following referred to as Maersk) reached an agreement which involved an extension of Maersk's concession in the North Sea – the so-called sole concession from 1962 – to 2042 and increased the government's revenues from the hydrocarbon production. The two parties also reached an agreement on compensation which meant that the sole concession holder would be compensated for any adverse financial implications of future regulations imposed by the government on oil and gas exploration and production. In 2018, the Danish Energy Agency approved Maersk's sale of its sole concession, including the compensation agreement, to the French oil and gas company TotalEnergies (in the following referred to as Total).

The Danish Hydrocarbon Tax Act and Hydrocarbon Tax Assessment and Collection Act govern taxation and collection of taxes on the activities in the Danish section of the North Sea, and the Danish Tax Agency under the Ministry of Taxation oversees compliance with the regulations of said acts.

### Licences

In this study, licences refer to the right to exploration and production in a geographically defined area of the North Sea. In the Danish Subsoil Act, such rights are referred to as permissions.

### Permissions

In this study, permissions refer to decisions made by the Danish Energy Agency concerning approval of activities in an oil and gas field within the scope of a licence. In the Danish Subsoil Act, such decisions are referred to as permissions and approvals.

### Hydrocarbons

Hydrocarbons are organic compounds composed entirely of carbon and hydrogen like, for instance, crude oil and natural gas extracted from the underground.

5. The purpose of the study is to assess whether the Ministry of Climate, Energy and Utilities and the Ministry of Taxation have administered the Danish oil and gas exploration and production licences in the North Sea in a satisfactory manner. The report answers the following questions:

- Has the Ministry of Climate, Energy and Utilities handled transfer of exploration and production licences in a satisfactory manner?
- Has the Ministry of Climate, Energy and Utilities' supervision of the licensees' use of the Danish section of the North Sea underground been satisfactory?
- Has the Ministry of Taxation administered taxation of the licence-holding companies in the Danish section of the North Sea in a satisfactory manner?



## Main conclusion

**The Ministry of Climate, Energy and Utilities' administration of the Danish oil and gas exploration and production licences in the Danish section of the North Sea has not been entirely satisfactory, whereas the Ministry of Taxation's administration has been satisfactory. The consequence is that the Ministry of Climate, Energy and Utilities has not obtained adequate assurance that the licensees comply with the conditions of their permissions and that activities are undertaken in accordance with the Danish Subsoil Act.**

The Danish Energy Agency has approved the transfer of licences in compliance with the regulations of the Danish Subsoil Act. The study shows that the agency has ensured that the companies taking over the licences had the necessary technical and financial capabilities by attaching conditions to the approval, if either the financial or technical capabilities of the company were considered inadequate. The agency's decisions on approval of transfer of licences are based on specific assessment of each individual case, but the agency has no general guidelines or criteria for the assessment of transfer cases.

The study shows that the Danish Energy Agency, with assistance from the Legal Adviser to the Danish Government, procured a legal basis for assessing whether the so-called compensation agreement could be transferred along with the transfer of the sole concession. The Legal Adviser to the Danish Government concluded that the compensation agreement was an integral part of the sole concession, and it would therefore not be legally possible to refuse co-transfer of the agreement. The transfer of the compensation agreement has not had any tax-related implications.

### **The Ministry of Climate, Energy and Utilities' supervision of the licensees' use of the North Sea underground has not been satisfactory**

The study shows that no documentation is available for the Danish Energy Agency's monitoring of compliance with the conditions for 51 per cent of the conditions set for the five fields included in the study. The agency has set 84 conditions in the period from 2016 to 2020. The agency cannot produce a complete list of conditions broken down on the five fields, which entails a risk that the agency lacks full overview of the conditions and that not all conditions are subject to supervision.

The study shows that up until 2019, the Danish Energy Agency did not draw up plans for comprehensive supervision of the licensees' activities. Not until 2018, did the agency develop a strategy for its supervision. Since 2019, the agency has planned its supervision based on risk and materiality assessments of each individual field. Yet, the agency has not been able to provide sufficient documentation of the actual implementation of the planned supervision. Documentation of the implementation of the supervision is missing for 61 per cent of the planned supervisory activities in 2019 and 2020.

**The Ministry of Taxation has administered taxation of the licence-holding companies in the North Sea in a satisfactory manner**

The study shows that since 2017, the Danish Tax Agency has, as a fixed routine, checked the tax returns of all licence-holding companies in the North Sea. The agency has particular focus on the more significant and risky tax returns that are generally submitted by the oil and gas producing companies.

The study shows that the Danish Tax Agency has observed the applicable deadlines in the 24 administrative cases that were reviewed by Rigsrevisionen.

The study also shows that decisions made by the Danish Tax Agency, in the period from 2016 to 2020, have required changes to the tax returns, which has increased tax revenue by approx. DKK 3.6 billion.