Legal aspects of re-use of infrastructure for carbon dioxide storage (offshore)

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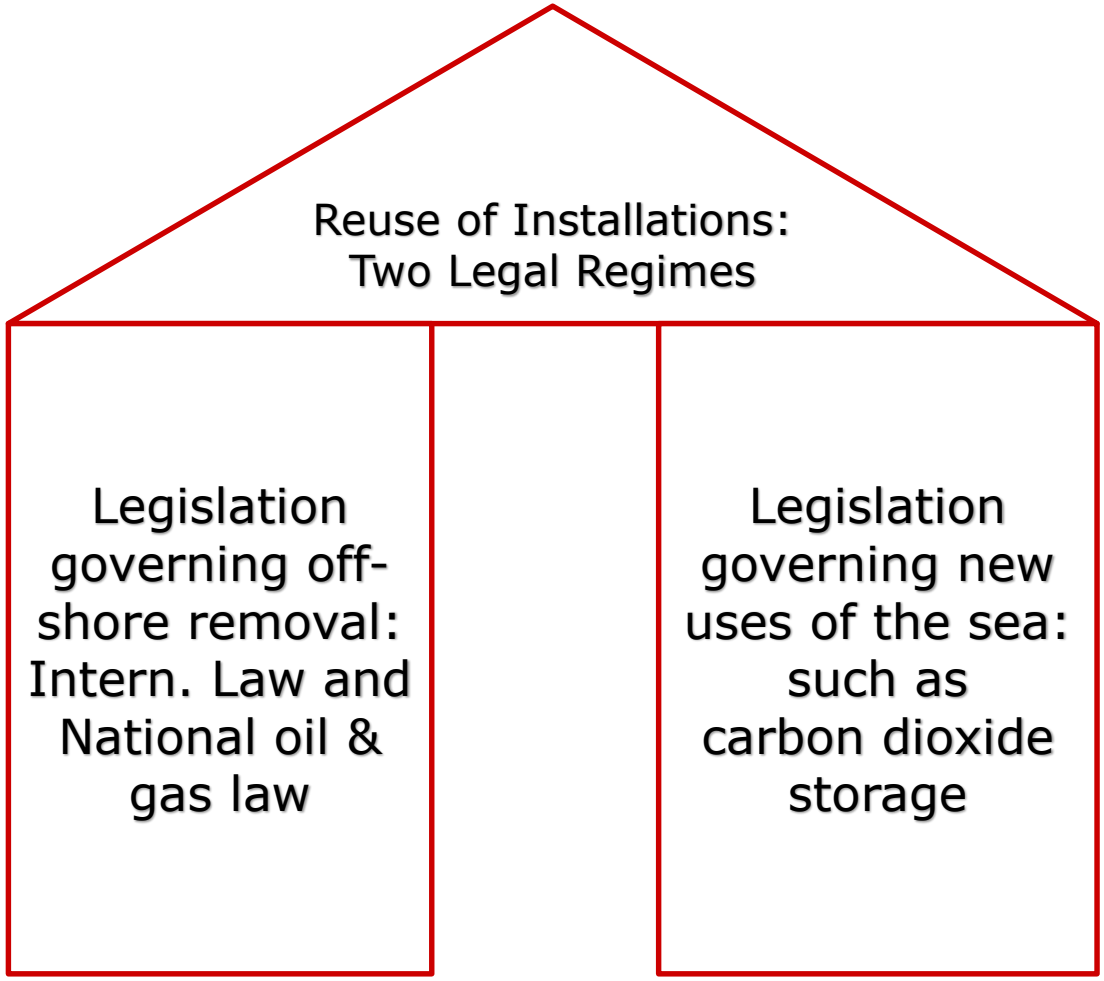
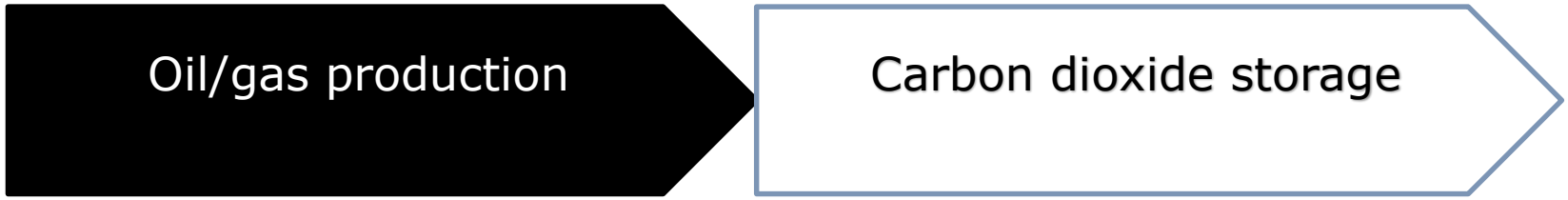
Two Legal Regimes:



Introduction:

- Reuse of infrastructure become relevant when use can be made of (almost) depleted fields

- Account needs to be taken of two developments



- Each activity has its own legal requirements. What is needed to align these activities?

Legal requirements:

- International law (UNCLOS) provides coastal states with functional jurisdiction and right to develop offshore installations but:
  - UNCLOS also requires complete removal or partial removal of disused installations.
  - IMO guidelines 1989 and OSPAR Decision 98/3 provide for the possibility of reuse
- National laws (in the North Sea area) generally follow the rules of International Law
- EU/national laws govern the possibility to store carbon dioxide offshore in, f.ex., depleted fields

Scenarios for reuse:

- **Scenario 1**: Carbon storage licence is awarded during hydrocarbons production. In this case the production licence and carbon storage licence apply together until production ceases
- **Scenario 2**: Carbon storage licence is awarded after production ceases/end of production licence
- **Scenario 3**: Production ceases/production licence lapses but carbon storage is forseen on the longer term. Reservoirs should not be closed and infrastructure not removed

Reuse vs Removal:

- All scenarios require authorities to balance the removal obligations vs. reuse of installations.
- The following issues arise:
  - Can all infrastructure be reused or should some of it be removed?
  - How to arrange for the future removal of remaining infrastructure, i.e. should any financial reservations for decommissiong be passed on to the new licensee?
  - How should these assets be transferred?

Transfer of Assets (I):

- Scenario 1 and scenario 2 are the least complicated
- The assets (hardware and financial) can be transferred to the new holder of the storage licence.
- This needs probably to be linked to a decommissioning plan
- Such transfer will need some sort of permission from competent authority as in case of farm in/farm outs agreement. This may require an amendment to the law

Transfer of Assets (II):

- Scenario 3 is more complicated as there will be a considerable period of time between end of production and storage activity
- Infrastructure cannot be left behind unatended and therefore someone must be appointed as responsible party
- Can this be the holder of the production licence? This might result in an abuse of a licence
- Should another party be appointed as an interim operator?

Operator of Last Resort:

- A 3d party can act as an operator of last resort.
- The operator of last resort maintains the well/ infrastructure until a storage licence is awarded
- The State plays a crucial role as the State holds the final responsibility for decommissioning and climate change goals
- If the State wants to avoid removal, it may have to take over the assets. In that case it can contract another party to carry out maintenance or award a new type of maintenance licence. In that case the assets will be transferred twice

Conclusion:

- Reuse of wells and infrastructure will become relevant in the (near) future, not only for carbon storage but also other purposes
- Several scenarios exist but the most complicated one is the scenario where there is a long time gap between the end of production and the new storage activity
- However, all scenarios may require some changes to the current legal regime in order to ensure that installations are maintained and ultimately removed

THANK YOU

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