

Introduksjon til Norsk Industri Juridisk Forum Standardkontrakter (NTK 15) og effektivisering av arbeidsprosesser

Henrik Inadomi, Kvaerner

KVÆRNER[™]

Kvaerner – A Norwegian-based EPC Contractor

CONCRETE



Global leader in marine concrete structures

- > Substructures
- > CONDEEP™ GBS
- > Floating concepts
- > LNG terminals

JACKETS



European leader in steel jackets

- > Steel jackets
- > Other steel structures
- > Piping technology

TOPSIDE & FLOATERS



Leading EPC contractor to the North Sea market

- > Topsides
- > Floating platforms

ONSHORE



Leading Norwegian EPC contractor for onshore plants

- > Upstream plants
- > Treatment facilities

Three recent deliverables – news in product pipeline



- Unmanned Wellhead platform
 - Cost competitive with fast track subsea installations
 - Standardized design
 - Water depth: up to 150 m
 - Minimum facilities on board
- Improved operations, IOR and well management



Contents

- 1 Introduction to Norsk Industri Olje og Gass – Juridisk Forum
- 2 NCS and the Norwegian Oil and Gas Industry's cost challenge
- 3 Ongoing development of standard contracts - NTK 15 Mod and NTK 15
- 4 Working smarter on NCS – the value chain perspective

Mandate – NIOG Juridisk forum

- > Incorporated December 2014 after a formal request from the Board of Directors Norsk Industri Olje og Gass

- > Mandate:
 - Report to the administration of Norsk Industri Olje og Gass, and support their handling of relevant legal aspects of current key issues raised by oil companies, governmental bodies and other organisations
 - Observe and suggest improvements to the industry's national (and international) legal framework
 - Contribute to the development of standard agreements and other standards providing predictability and manageable risk for the oil services industry and for the oil and gas business as a whole
 - Provide a forum where legal representatives from each member can discuss current trends in the industry (within the confines of competition law)

- > Main work during 2015:
 - Mandate and work form
 - Standard contracts
 - Support NI's positions regarding development of Model FOU agreements
 - Submission to Ministry of Industry and Fisheries re Norwegian model for bilateral investment agreements

12 Members per 29. november 2015

Company	Name	Position*
Kværner	Henrik Inadomi	Juridisk Direktør (Chair)
Aibel	Monica Baardseth	General Counsel (Vice Chair)
Woodgroup Mustang	Gipsy-Ann D'Souza	VP Legal
EMAS AMC AS	Stina Spanne	Head of Legal
Worley Parsons	Dag Waldenstrøm	Contract Advisor
Aker Solutions	Axel Gustavsen	Juridisk Direktør
ABB	Kjerstin Bull-Berg (Hege Bretseg)	SVP General Counsel
FMC Technologies	Thomas Bille	Juridisk Direktør
IKM	Tone Kaasen	HR/ Contract Manager
Siemens	Lauren Erin Mittenthal	Legal Counsel
GE Oil and Gas	Cathrine Killi	Global Commercial Manager
Nexans	Bjørn Christian Bergstad	Juridisk Direktør

* According to the mandate, the representative shall have a position of responsibility within the member's management of its legal work processes

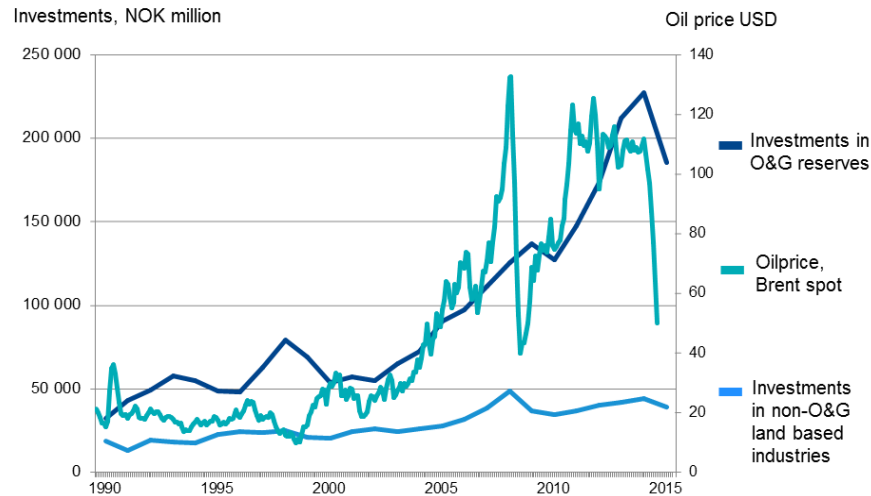
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NCS in a global competition for EP investments

Out of sync with other industries:

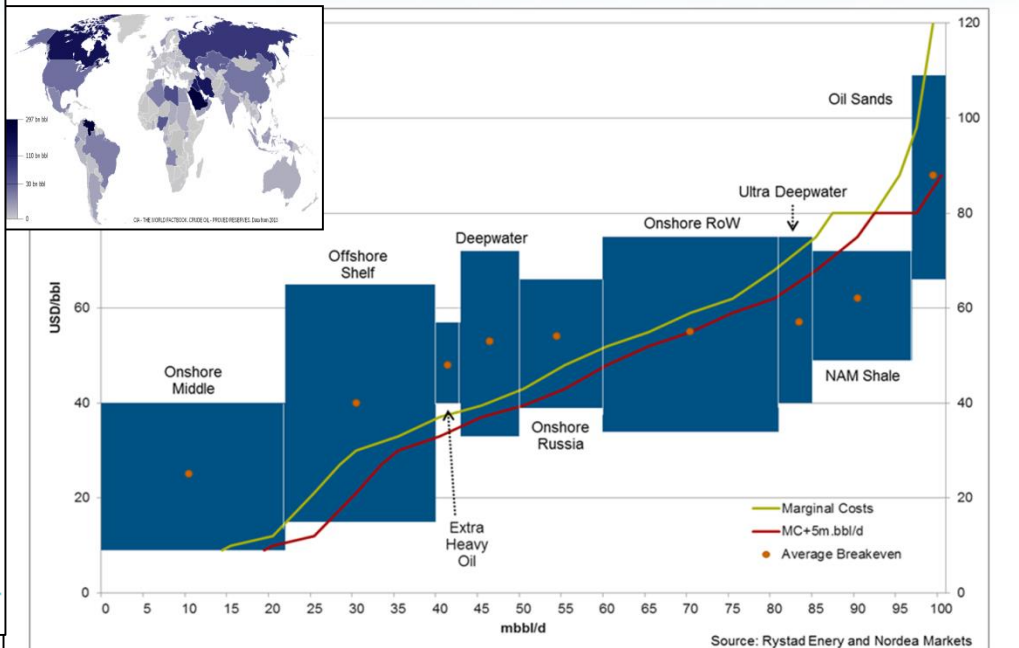
Oil price and investment levels the last 15 years



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From Cartel to Market Share – a new price era?



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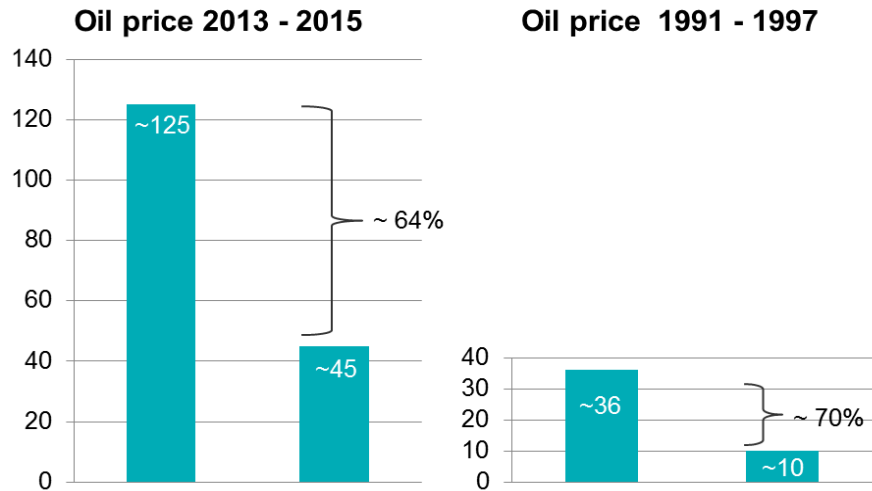
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- > We are facing significant cuts in EP Investments (from a record high level)
- > Oil Companies' investment decisions dependent upon:
 - IRR => costs (capex and opex), time from CA to production, regularity during operations, aggregate tax regime
 - Risk (political and regulatory stability)
 - Strategic fit (NCS attractiveness)
 - Etc
- > How will NCS prevail in the battle for investments?

The obvious need to cut costs on NCS

With zero margin at USD 120 / bl, 20% cost cuts is not enough at USD 50 / bl

Learning from previous downturns

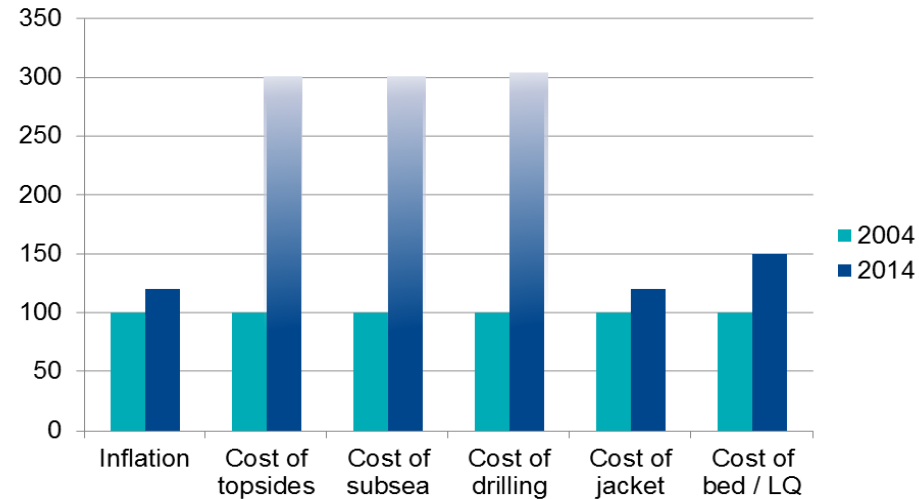


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What should we learn from the cost index?



8

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All figures based on estimates
Sources: Norsk Olje og Gass, Kvaerner, etc.

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- > The industry has survived (and thrived) after similar reductions in the oil price
- > What was done in the previous round?
 - Development of the EPC model (reduced lead times realizes time value of money)
 - Development of Norsok standards
- > The benefits of standardization and industrialization
 - Across the industry, not company specific
 - The price of a jacket is the same in real terms as for 10 years ago

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NTK 15 Mod / NTK 15 – contract standards

- NIOG-JF supports the standardization work done on NTK 15 / NTK 15 Mod
- All actors on NCS are strongly encouraged to use NTK 15 contracts
- We fully support Norsk Olje og Gass that standard contracts reduce costs
 - Enables competition on delivery model and cost of production
 - Reduces transaction costs through efficient project preparations
- NIOG-JF well positioned to monitor use of NTK 15

Standardization initiative



- The companies gets reduced costs
- New standard contracts
- A part of a larger initiative for standardisation

22.10.2015 - STANDARD CONTRACTS FOR NCS PROJECTS

How standard contracts reduce costs

Subtitle

- Cost efficient award processes
- Cost efficient administration
- Precision in pricing
- Industry practice

Standardization will contribute to improved efficiency on NCS

- Efficient and accurate pricing
 - Predictability and commercial security for the developer, supplier and subcontractors contributes to efficient and accurate pricing
 - (Assuming risk in the contract can be adequately priced)
- Deliveries to the right quality and time
 - Appropriate and predictable risk balance helps to ensure that projects are delivered contractually and on time
- Cost-effective procurement and administration:
 - Use of standard contracts enables cost procurement and contract management throughout the value chain
- Increased focus on implementation and less on conflict
 - Attention to appropriate and effective project instead of much conflict during and after the project
- Development of industry practices
 - Use of standard contracts contributes to industry practices that increase the predictability and efficiency even further : Socially desirable that industry uses standard contract terms

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NCS projects – working smarter in the value chain

- › Two ways of reducing costs:
 - (i) “squeezing suppliers”
 - (ii) “working smarter”
- › Efficient allocation of risk and responsibility

› Risk = **probability of risk occurring** x **consequence if the risk occurs**

Which party is best positioned to reduce the probability of the risk occurring?

Which party is best positioned to reduce the consequence of the risk if it occurs?

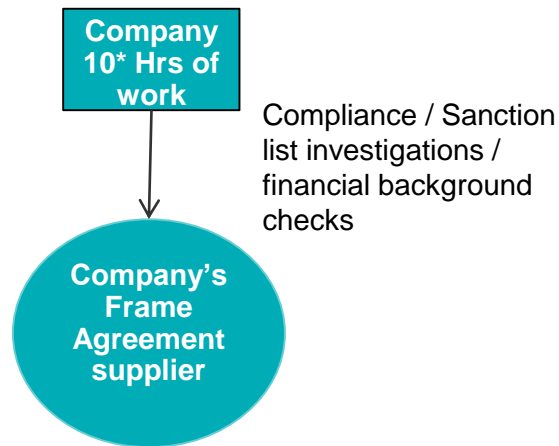
- › The value chain perspective
 - How should the risk be structured in the value chain so that the probability of the risk occurring is reduced?
 - How should the risk be structured in the value chain so that the consequences if the risk occurs are reduced?
 - Reducing transaction costs within the value chain

Working smarter – the need for background investigations of Company's Framework Agreements

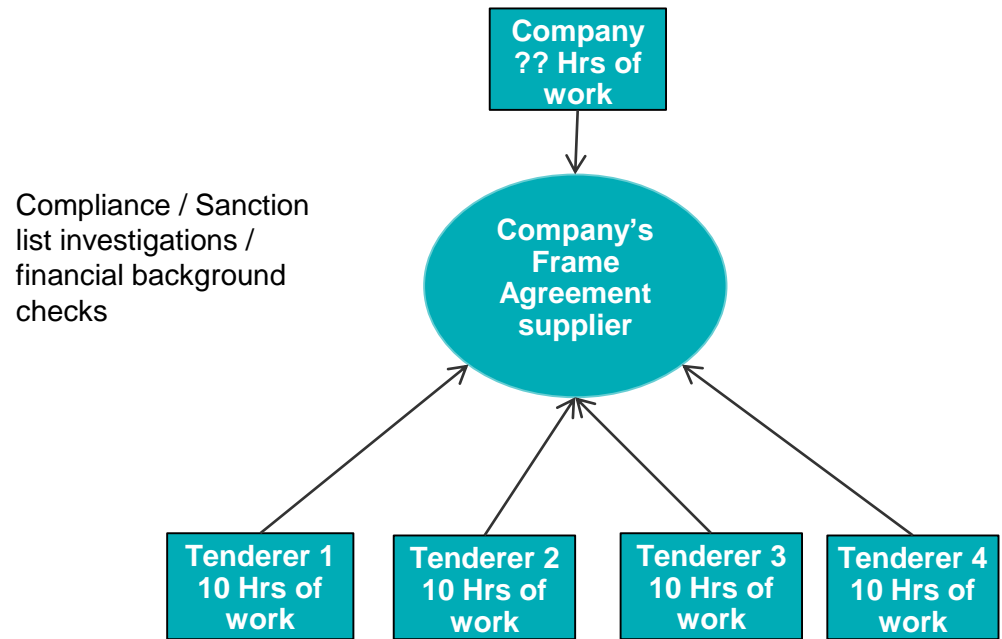
Article XX SANCTIONS

XX.1 Contractor represents and warrants that neither he, nor to his knowledge any member of the Contractor Group, is a) listed on a Sanction List, or owned (in whole or in part) or otherwise controlled, directly or indirectly, by any person or entity listed on a Sanctions List or b) resident or incorporated under the laws or any country or territory subject to Sanctions. Contractor undertakes immediately to notify the Company's Representative in writing should he become aware of any changes in this respect.

NTK 15 Art 8 – Contractor responsible for Frame Agreements (unless specified in Appendix H). No carve out for FA subcontractors insolvency.



> Total = 10 hrs of work



> Total = 40 + ?? hrs of work

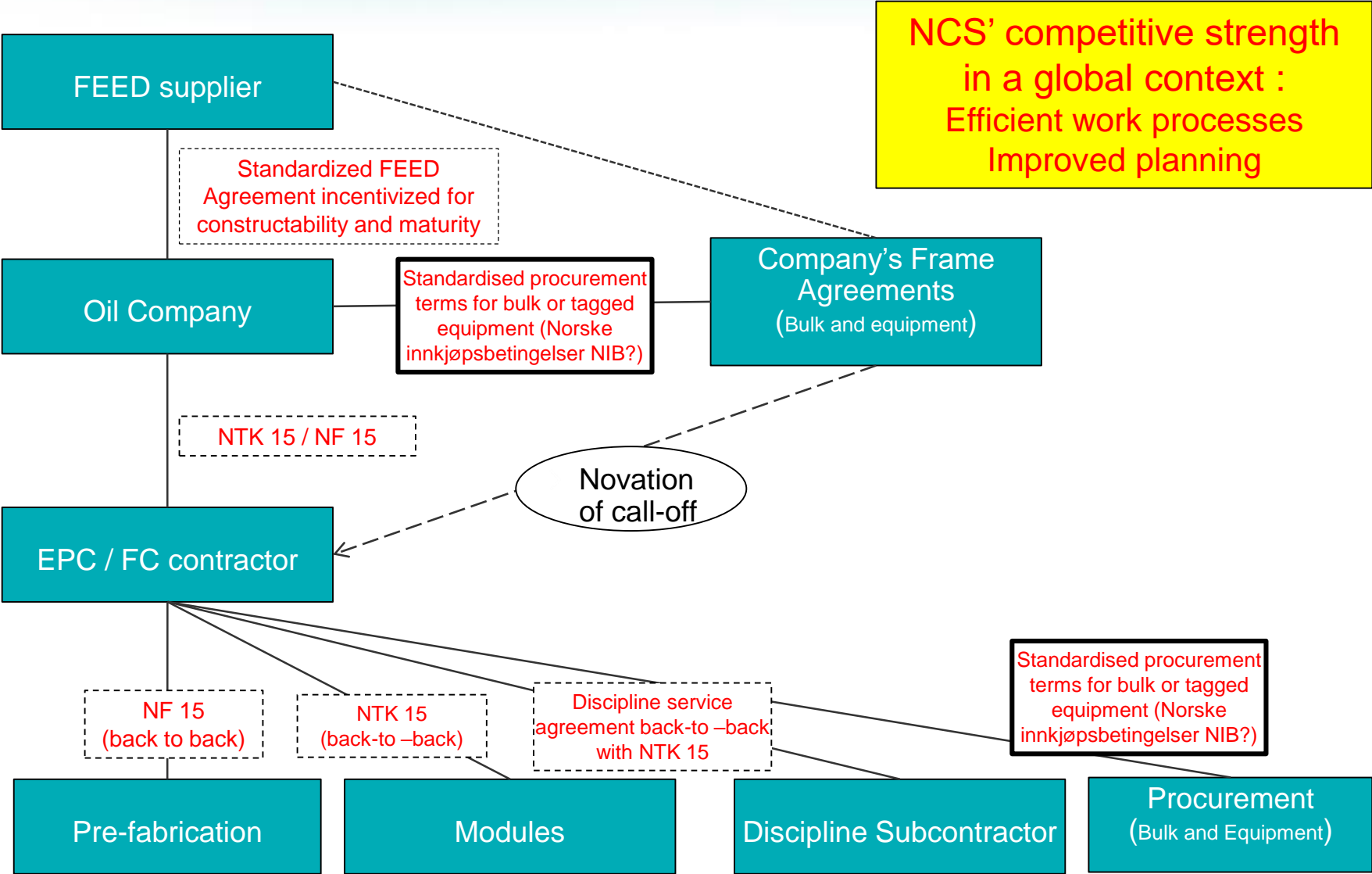
Procurement statistics from three recent topsides

Project	Topside 1	Topside 2	Topside 3
Procurement packages total	156	148	140
Tagged equipment	75	75	76
Bulk	81	73	64
Company FAs	54	10	84
Feed Contractor's subsequent amendments	0	0	58
Contractor's FAs	102	138	56
Values at contract award	Equipment: MNOK 1560 Bulk: MNOK 1319	Tagged items: MNOK 3095 Bulk: MNOK 875	Tagged items: MNOK 1160 Bulk: MNOK 1040
Comments	<p>Terms and conditions Company's framework agreements were prepared during FEED. The conditions were a "merging" of FEED - provider and the company's General Conditions of Purchase.</p> <p>No gaps with EPC contract.</p>	<p>EPC-contractor responsible for most of the procurement. Company's framework agreements were signed by FEED provider.</p> <p>Feed Supplier's and Contractor's standard terms for procurement are similar.</p> <p>No gaps with EPC contracts.</p>	<p>Terms and Conditions for Company's framework agreements come in 5-6 different versions, of varying quality. The most recent versions are NF / NTK based. Amendments to older framework agreements are being made by FEED provider (during the project phase). Further adjustments will be required on certain packages (eg compliance regulations), with very limited mandate for price impact. Time-consuming negotiations between Contractor and Equipment Supplier.</p> <p>Not insignificant gaps with main EPC Contract and procurement terms.</p>
Summary	<p>Procurement terms vary from project to project – custom preparations for each project.</p> <p>Procurement terms may vary significantly within a project – this creates residual risk and increases transaction costs</p>		

Recent examples of gaps between Main Contract and Company's Framework Agreements

- › Loss and damage to the contract object – knock for knock regulations not aligned
- › Contractor's Jump Obligation ("hoppeplikt") in one instance not extended to FA Supplier
- › The right to demand delivery of equipment in case of anticipated delay
- › Audit rights against FA supplier not always provided for, while Contractor has an obligation in the main contract to provide for audits of itself and of Subcontractors
- › FA supplier's contributions to the detailed engineering process of varies
- › Obligation to complete documentation – LD exposure?
- › Responsibility for re-testing – costs for re-testing may not be part of the FA contract price
- › Alignment with main contract re CSR , Anti- Corruption and Fair Competition, HSSE and Pollution not always provided for (obligations extend to FA Supplier's subcontractors)

Standardization in the value chain



Standardization of procurement on NCS

- Potential for enacting a standardized set of “back to back” terms for procurement for tagged equipment on NCS if Companies use NTK 15/NF15 contracts for field developments on NCS
 - Main EPC (Greenfield/Brownfield) contract is the starting point for standardization initiatives
 - If NF 15 is harmonized with NTK, a scaled down and “back to back” adjusted version may work well as procurement terms
 - Alternatively, an updated version of Norske Innkjøpsbetingelser (NIB)

- Such standardization reduces risk associated with NTK 15 section 8.3 where Contractor takes responsibility for Company’s Frame Agreements and subsuppliers
 - The framework that Contractor is stepping into will be more predictable and transparent
 - Reduces emphasis on Appendix H exceptions re Company’s FAs

- Norsk Industri suggests that procurement terms are included in the standardization processes for NCS
 - To be negotiated between Companies, Contractors and Equipment Suppliers
 - Company, EPC Contractor, FEED supplier and Equipment Suppliers should operate with standardized terms for NCS
 - Ensures predictability for all parties
 - Ensures that Company's requirements in NTK (incl Contractor’s follow on obligations) are safeguarded
 - Can be extended to Companies’ and Contractors’ own frame agreements
 - “Resistance” from Headquarters needs to be handled



Thank you