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Dear

### **IMPROVING THE EFFECTIVENESS OF COMMERCIAL NEGOTIATIONS**

A key element of maximising the value of the UKCS for both the nation and the companies investing in it is to ensure that commercial agreements are reached quickly and with least risk to completion. To improve performance in this area, the industry introduced codes of good practice covering commercial negotiations, infrastructure agreements and supply chain management from 2002 to 2004. The surveys that have followed the publication of these codes showed a marked improvement in performance in the early years but, more recently, the survey returns have been disappointing with conformance faltering or even declining.

In the light of this decline, and particularly because the smaller projects of the future will be even less able to bear the costs of unnecessarily protracted negotiation than those of the past, PILOT formed a working group to identify what could be done to improve performance overall. The group has found that the problem is not with the codes but with their implementation. In support of the group, I would therefore challenge the leaders of the industry to take five actions that together would strengthen the application of the codes and make a real difference to the commercial environment. The five actions are that:

- you confirm that you support the Codes of Practice and that you have nominated your Code of Practice Champion,
- you (or on the occasions that this is impractical, your deputy) will meet with your counterpart at the beginning of each negotiation to assess the prospects for success, identify key issues, set a broad timetable for progress, and copy a summary of the meeting to the Department;
- you confirm that your legal/commercial teams will use the industry standard agreements that are available,

- you establish a means to monitor compliance with the codes within your company and a process by which your organisation will ensure prompt responses to enquiries,
- you commit to promote throughout your organisation the principles and behaviours required under the new tiered compliance scheme for the supply chain code of practice.

I would ask that you respond by the end of February accepting this challenge and setting out the actions you have taken.

The working group also identified that there was a greater role that government could take in this area. I can confirm that we are increasing the resources to monitor and work with industry to help improve performance particularly for the Infrastructure Code and its new system of compliance. In addition, Jim Campbell or Simon Toole will be visiting you to discuss your company's track record in the past and the actions you are taking in response to this letter. I will be asking for feedback on each company's conformance to the codes over the next 12 months and will be following up any cases where there is evidence of systematic non-compliance.

In addition to this work on the codes, we are undertaking a review of the principles and guidance that we will apply should any disputes over access to infrastructure be raised for our determination. By doing this we hope that both owners and users of infrastructure will be very clear as to our approach to key features of an agreement and that this might help to set the broad parameters for these commercial agreements. I would welcome input from the industry as to how our guidance in these matters could be improved.

If both government and industry work together to improve the commercial environment in the manner recommended by the working group and set out above, we can help maintain a vibrant basin, creating wealth and contributing to energy security for the UK. I trust that you will support this endeavour.

Yours sincerely

Mike O'Brien