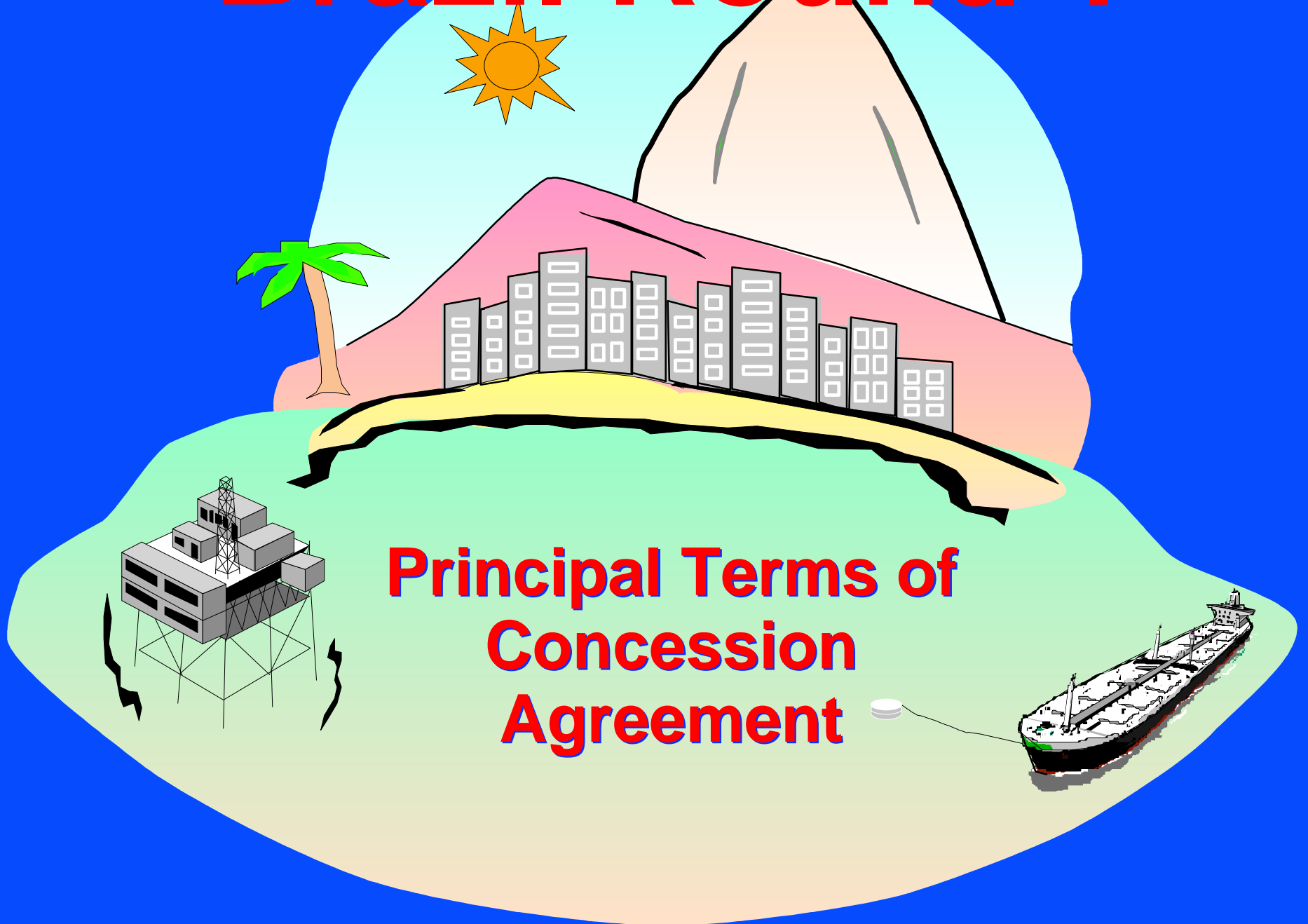


Brazil Round 1



**Principal Terms of
Concession
Agreement**

Brazil Round 1



LEGAL ASPECTS

Sonia Maria Agel da Silva

General Counsel, ANP





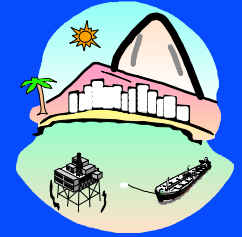
Concession Agreement - Introduction (*Continued*)



- **Model Concession Agreement developed to reflect several considerations**
 - **Requirements of Petroleum Law**
 - **International practice and experience**
 - **Brazilian legal context and background**
 - **Specific aspects of Brazilian petroleum sector**



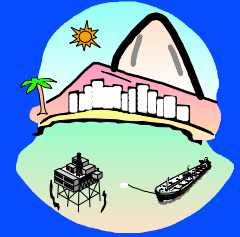
Concession Agreement - Introduction (*Continued*)



- ANP entered into 397 Concession Agreements with Petrobras, August 1998
- These 397 Agreements reflect extensive discussions with Petrobras and numerous comments from industry



Concession Agreement



- Draft Concession Agreement background
 - **First published for comment, March 1998**
 - **Revised version signed with Petrobras, August 1998**
- Draft Model Concession Agreement for Round One released February 1999
 - **Modified version of Petrobras Agreement**
 - **Not yet definitive - changes may be made**
- Comments due April 9
- Definitive Model Concession Agreement will be released with Final Tender Protocol (*Edital*) by end April
 - **Thereafter no changes**
 - **Winners must sign exactly in form released**



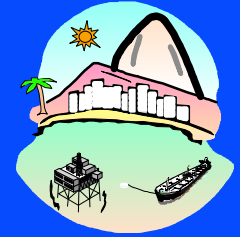
Concession Agreement General Principles



- Agreement capable of lasting up to 36 years or more
- Exploration Phase
 - Up to 9 years
 - Extensions possible
- Production Phase
 - 27-year term starts with declaration of commerciality
 - Extension possible (at option of concessionaire or ANP)
 - Termination at option of concessionaire with 6 months' prior notice



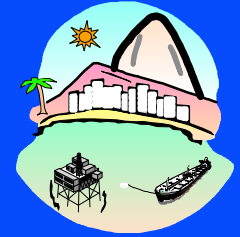
Rights of Concessionaire



- Exclusive development rights within Concession Area
- Ownership of measured hydrocarbons at metering point and can sell at any point thereafter
- May export subject to permit
 - One-time registration per company
 - Only requires notification of cargoes
- May enter into consortiums in which all participants are jointly and severally liable under Concession Agreement



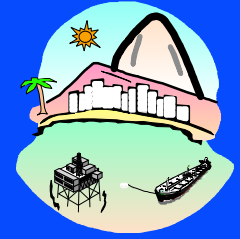
Obligations of Concessionaire



- Must be a Brazilian company (may be controlled by foreign entity)
 - If signatory is affiliate of Qualified Company, QC must execute performance guarantee
- Carry out all operations at own cost and risk
- Carry out Minimum Work Obligation (MWO)
 - Must provide financial guarantee equal to total estimated cost of MWO
- Must report to ANP and make available relevant information on operations
- Liable for all losses and damages (e.g. to third parties, the environment, etc.) resulting from operations
- Must maintain appropriate insurance



Local Content



- **Brazilian companies must be given a fair opportunity to bid on Concessionaires' procurements of goods and services**
- **Objective is to maximize local content in all phases of operations**
- **Minimum percentage will be part of the bidding structure**



Local Content (*continued*)



- To comply with local content sourcing obligation, Concessionaire must:
 - **Include Brazilian suppliers on its list of eligible suppliers of goods and services**
 - **Prepare acquisition specifications in Portuguese in a manner that does not restrict, inhibit or impede Brazilian companies**
 - **Ensure all suppliers equal access to information (such as revisions of specifications)**



Government Take



- Under Concession Agreement, Concessionaire undertakes to pay
 - **Signature Bonus**
 - **Royalty**
 - **Special Participation**
 - **Land occupancy or retention payments**



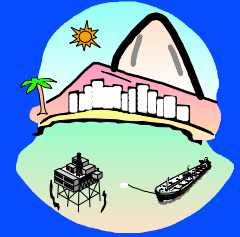
Other Payments



- **Concession Agreement also requires Concessionaires to make:**
 - **Investments in research and development**
 - **Other payments relating to land use**
 - Landowner compensation under Petroleum Law
 - Costs of all necessary easements and takings



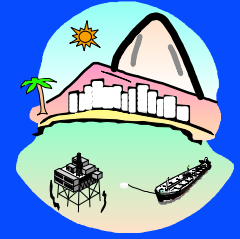
Investment in Research and Development



- Concessionaire obligated to invest 1% of Gross Production Revenue from any field subject to Special Participation
 - Up to 50% of required investment may be used in Concessionaire's own R&D (in own installations or institutes registered with the ANP)
 - 50% must be invested in university and national research institutes registered with the ANP
 - Concessionaire may cooperate with institutes to develop research programs in which it will invest
 - ANP will cooperate with Concessionaires to register bona fide research institutes not included on ANP list
 - ANP considering crediting of R&D investments in one year against obligations in other years



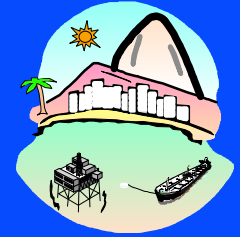
Eminent Domain



- Owners of properties used by oil producers also entitled to payment for eminent domain (rights of way, easements, etc.)
- In case of outright acquisition, no other payments (including landowner fees under Petroleum Law) due
- Payments for eminent domain are only compensation to be received by owners of properties on which facilities other than producing wellheads are located



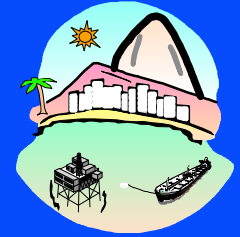
Eminent Domain (*Continued*)



- Costs of eminent domain for sole account of Concessionaire
- Procedure
 - **Statement of public utility by Law or Presidential Decree obtained by the ANP following submission of request and supporting information by Concessionaire**
 - **Appraisal of property rights**
 - **Administrative agreement or judicial order regarding final amount of award**
 - **Registration of agreement or order with real estate public notary**



Contract Remedies



- In the event of default, normal contract remedies under Brazilian law
 - **Petroleum Law provides for administrative and monetary penalties**
 - **ANP does not contemplate additional penalties beyond normal contract remedies**
- **Concession Agreement may be rescinded by ANP in the event of unremedied material breach by Concessionaire**



General



- **Governing law - Brazilian**
- **Dispute resolution**
 - **Binding arbitration under ICC rules**
 - **In Rio de Janeiro**
 - **In Portuguese (with possibility to present witnesses and evidence in English)**
- **Transfers**
 - **Subject to ANP approval**
 - **If transferee not a substantial company, ANP may require performance guarantee**
 - **Assignment of rights for financing purposes being considered by ANP**



General (Continued)



- Concessionaire subject to confidentiality obligation for all non-public information produced, developed or obtained as a result of the operations and the Agreement
- ANP confidentiality obligations
 - **Under Portaria 188/98**
 - Well data - 2 years
 - Proprietary seismic - 5 years
 - **Other information, including commercial and proprietary technical, will be kept confidential indefinitely**



General (*continued*)



- Force majeure (as defined under Brazilian law) excuses performance of affected obligations
 - **Agreement extended for period of force majeure**
 - **Losses resulting from force majeure are for account of Concessionaire**
- Currency of Concession Agreement is *reais*
- Concessionaire must keep books and records in accordance with Brazilian GAAP
- ANP will conduct annual financial and accounting audit of Concession Agreement

Brazil Round 1

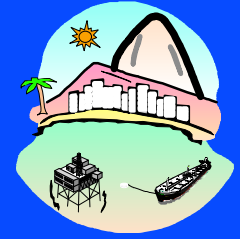


TECHNICAL ASPECTS

Ivan de Araújo Simões Filho
Supt. Licensing and Promotions



Exploration Phase



- Up to 9 years
 - **Two or three periods of 2 - 4 years each**
- Relinquishment required at end of each period
- Minimum work obligations applicable to each period
- Exploration may be continued in the Production Phase
 - **Within Development Area boundary**



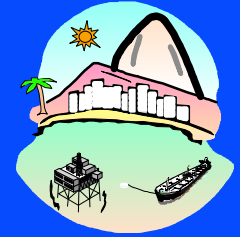
Exploration Phase - Minimum Work Obligation



- As set forth in Initial Tender Protocol:
 - **Separate obligations for each exploration period**
 - **First period**
 - Mostly seismic, though some have 1 well (BT-POT-2: 2 wells). 1 sq km of 3-D may be substituted for 5 km 2-D
 - **Second period**
 - 2 wells, except BT-POT-2 (3 wells)
 - **Third period (if applicable)**
 - 3 wells
 - **Each period requires guarantee by Standby Letter of Credit**
 - US\$ 3 - 15 million for first period
 - Set at time of renewal for second, third periods
- **Additional work at discretion of Concessionaire**



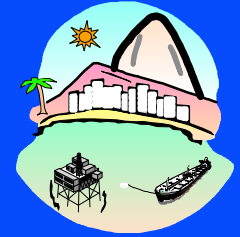
Well Commitments



- 16 Blocks have only seismic commitment in first exploration period
 - Well commitment only if retained for second or third period
- Well commitments include one "deep" well on each Block
 - First period on 11 Blocks, second or third period on remainder (if retained)
 - Companies may choose period in which this is drilled
- Guarantee will recognize cost of "deep" well until drilled
- All remaining wells have minimum target horizon
- Additional exploration activity may count towards next exploration period
 - Subject to ANP pre-approval of program



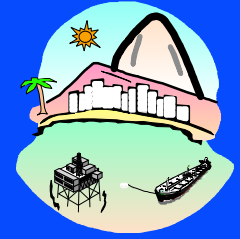
Concession Agreement Discovery and Development



- **Exploration**
 - **Minimum Work Obligation**
 - **Additional activity at discretion of concessionaire**
- **Appraisal**
 - **At discretion of concessionaire within Exploration Phase**
 - **Extended/long term tests require special consents or Development Plan**
 - **For discoveries near end of Exploration Phase, extension of appraisal period subject to ANP approval**
- **Declaration of commercial viability**
 - **Timing for declaration:**
 - **May be made any time in original Exploration Phase**
 - **Must be made within 60 days of end of appraisal program if in extension of Exploration Phase**
 - **May be delayed if viability depends on infrastructure development**
 - **180 days after declaration to submit Development Plan**



Production Phase



- **Starts with Declaration of Commerciality**
- **Lasts 27 years with possible extension**
- **Relates to Development Area**
- **Multiple Development Areas possible under single Concession Agreement**



Concession Agreement Extensions



- **Exploration Phase**
 - **Active appraisal of discovery made close to end of final period**
 - **Based on pre-agreed appraisal program**
- **Production Phase**
 - **Must be requested 1 year in advance**
 - **Ordinarily granted if field still in production**



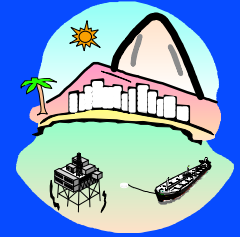
Approvals



- Notification only required (no approval needed - other than applicable regulatory approvals, if any):
 - Annual work program and budget
 - Additional exploration activity
 - Discovery
 - Appraisal within Exploration Phase
 - Drilling of wells
 - Updates regarding start-up, Production Programs
- ANP approvals required:
 - Development Plan and modifications thereto
 - Extension of appraisal program beyond end of Exploration Phase
 - Deactivation plan
 - Flaring of gas
- ANP to approve or reject within specified period
 - 60 days (30 days in case of Deactivation Plan and modifications to Development Plan)
 - Deemed approved in absence of action



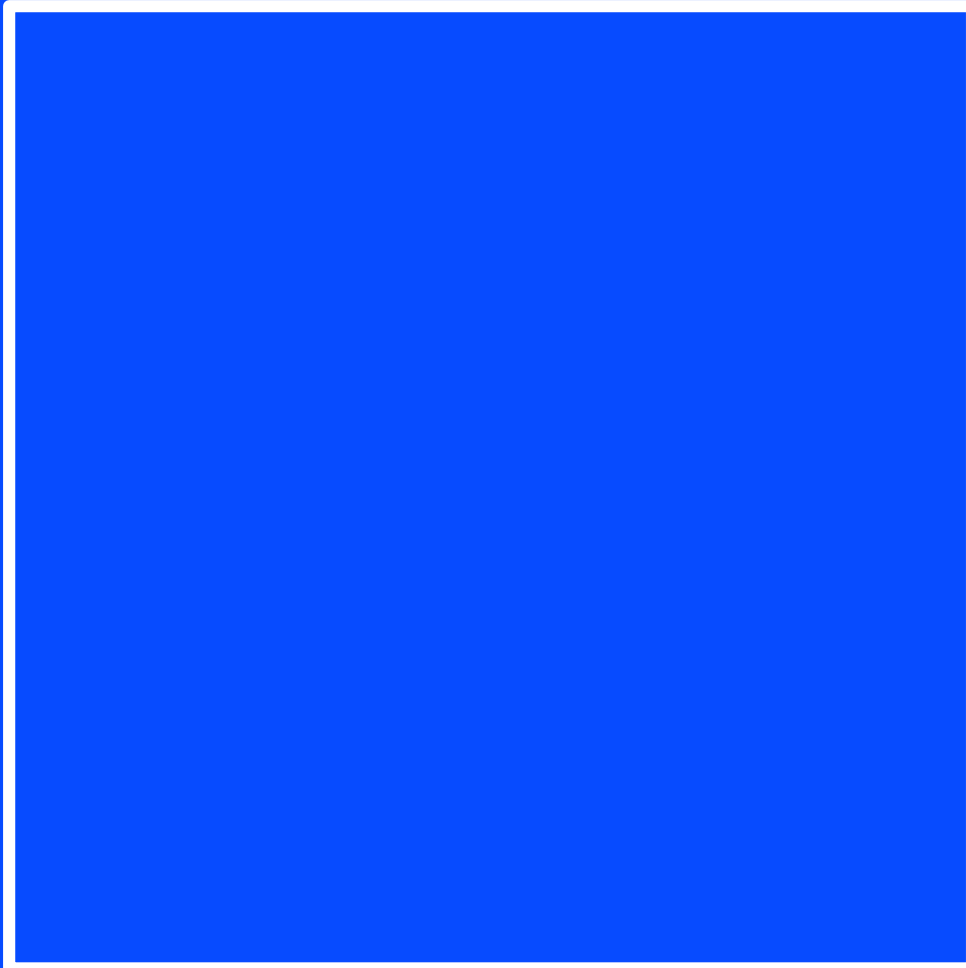
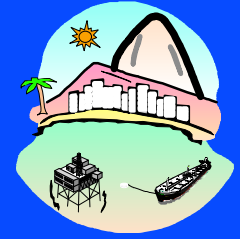
Relinquishment Obligations



- **Concessionaire required to relinquish a certain percentage of Concession Area at end of each Exploration Period - typically (though it does vary):**
 - **50% at end of first period**
 - **25% at end of second period (if third exists)**
 - **Periods and percentages as set forth in Initial Tender Protocol**
- **Must relinquish entire Area not under development at end of Exploration Period**
- **May voluntarily relinquish additional Area**
- **Relinquishments must be done in accordance with ANP rules and procedures and best industry practices**
 - **Assets necessary to continue operations in relinquished area must also be relinquished**
 - **Concessionaire must remove any assets not to be relinquished but located on relinquished area**



Relinquishment Obligations (Example)



Original area
5,000 sq kms



Relinquishment Obligations (Example)



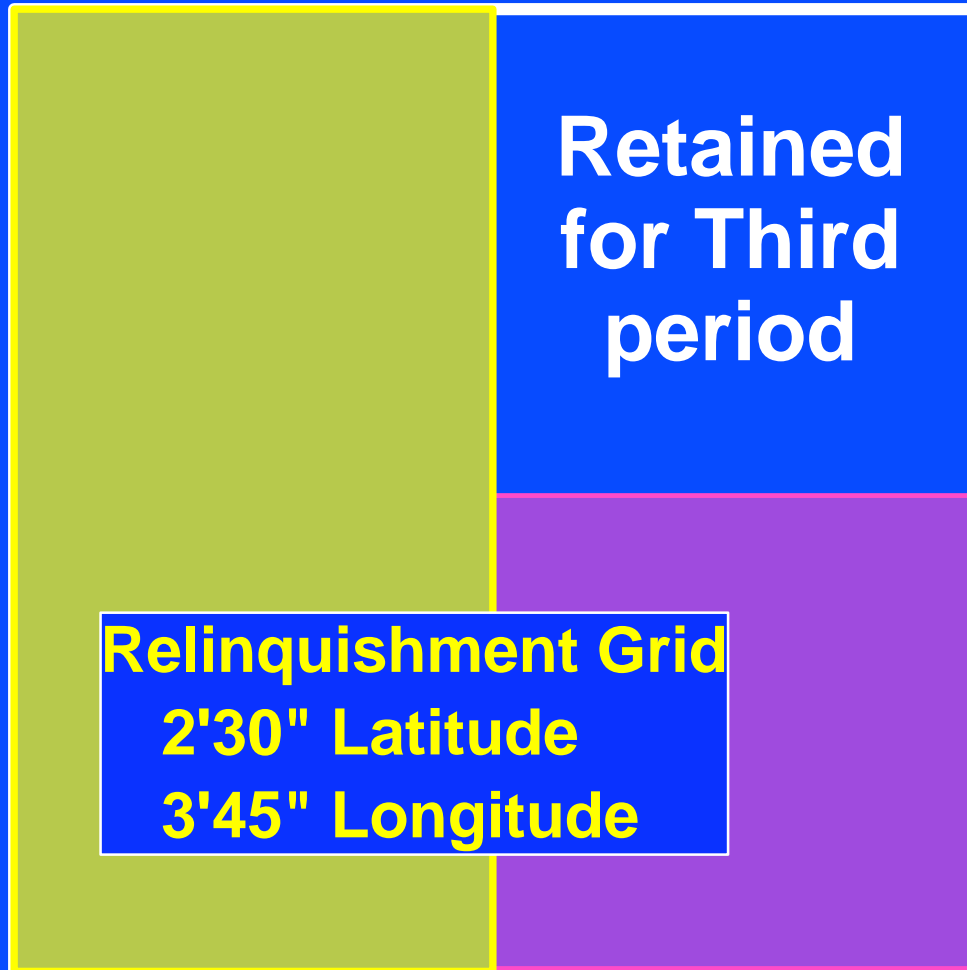
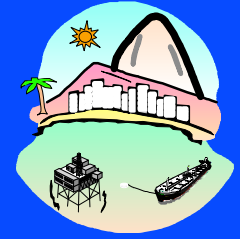
**Retained
for Second
period**

**Original area
5,000 sq kms**

**End first period
Relinquish 50%
(2,500 sq kms)**



Relinquishment Obligations (Example)



Original area
5,000 sq kms

End first period
Relinquish 50%
(2,500 sq kms)

End second period
Relinquish 25%
(1,250 sq kms)

Relinquishment percentages apply to originally awarded area



Development Plan



- **Definition of Development Area**
 - **9.375" x 9.375" grid**
 - **No vertical limitation**
- **Requirements**
 - **Typical information on development philosophy, reserves, production profile, startup date, safety/environment, schedule, investments, etc.**
- **May submit updates**
 - **As required, to meet changed circumstances**
 - **Also requires ANP approval**
- **60 day approval period**
 - **ANP may request modifications**

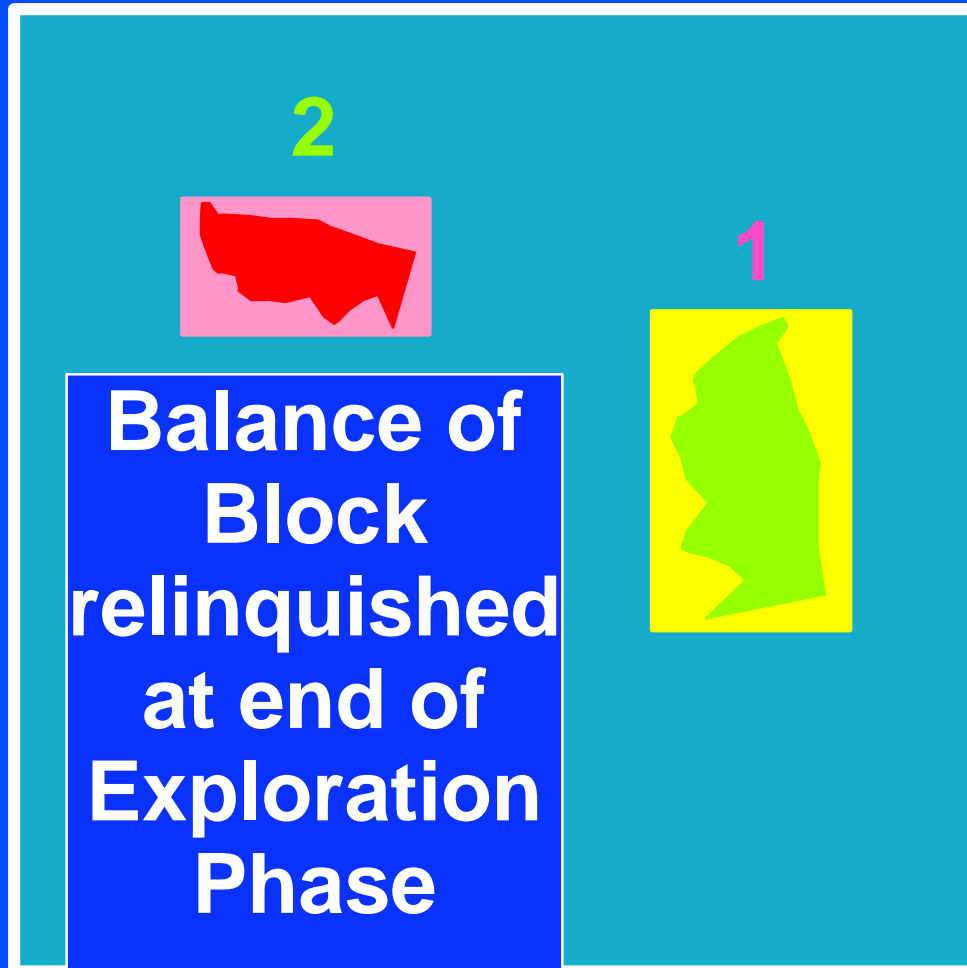
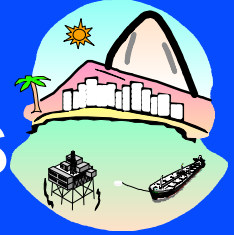


Development Plan (*Continued*)



- If development not possible even with amendment of Plan, Concessionaire may terminate Development Plan
 - **Requires delivery to ANP of Deactivation Plan at least 30 days prior to implementation**
 - **Subject to ANP approval**
 - **Concessionaire irrevocably relinquishes Area covered by Deactivation Plan**
- Once Development Phase completed, Concessionaire retains only areas needed to produce field(s) and relinquishes remainder to ANP

License Phases and Boundaries



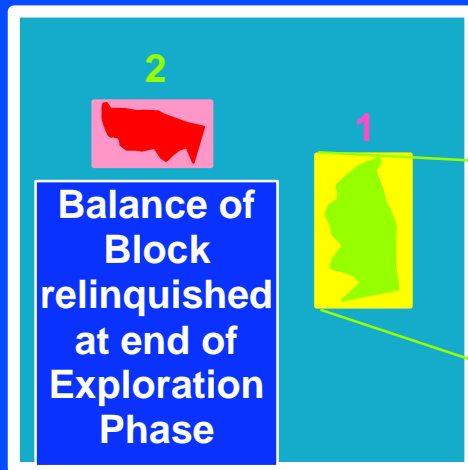
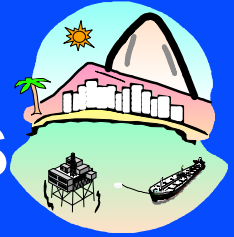
**Exploration Phase
up to 9 years**

**Production Phase
Development Area 1
27 years from Decl. of
Comm.**

**Production Phase
Development Area 2
27 years from Decl. of
Comm.**

Phases may be extended, subject to conditions

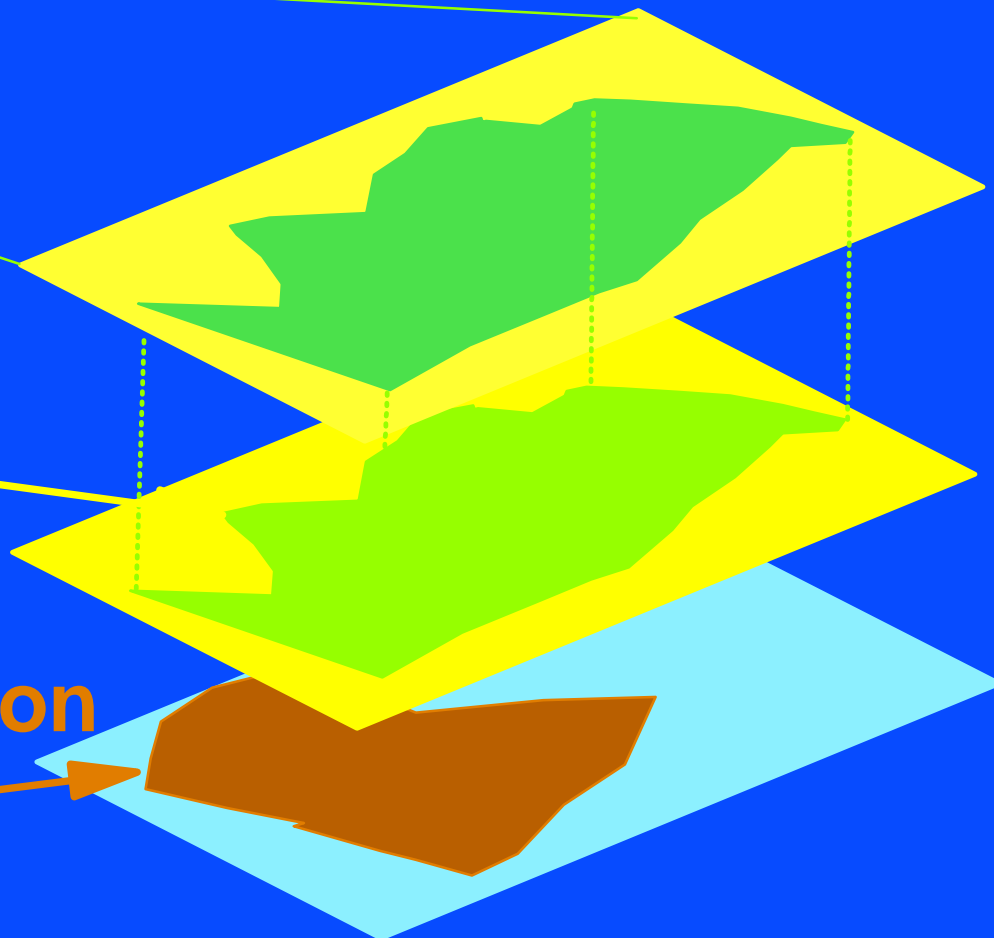
License Phases and Boundaries



Development Area

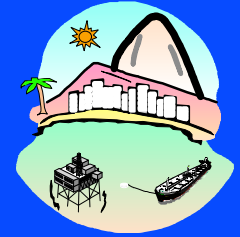
Field Boundary

Additional Exploration Target





Unitization



- Unitization of fields crossing Area boundaries required by Petroleum Law and Concession Agreement
 - Concessionaire must notify ANP and other Concessionaires
- Standard international oil industry practice to apply
- Unitization agreement between parties subject to approval of ANP
 - Pending agreement, production in field to be unitized subject to approval by ANP and all interested parties
 - Deemed approved if no ANP action within 60 days
- If no agreement, parties may request mediation by ANP
 - If no agreement within 180 days, ANP may require binding independent arbitration