

**EU Policy-Making and Policy Networks:
The impact of EU level policy-making on British and Norwegian offshore health and
safety policies**

**Mick Cavanagh
Department of Government
University of Strathclyde
McCance Building
16 Richmond Street
Glasgow
G1 1XQ
Scotland**

michael.cavanagh@strath.ac.uk
michael.cavanagh1@ntlworld.com

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suggestions welcome*

With the relaunching of Europe as a significant political and economic actor has come the expansion of EU level competence over a wide array of policy areas and issues of direct relevance to the daily experience of the EU citizenry. The Single European Act (SEA) and the subsequent revisions of the European Treaties has redefined the direct involvement of EU institutions and altered the national policy making environment in occupational health and safety. This institutional development is undoubtedly the most significant institutional factor to have affected the offshore oil and gas industry. This paper seeks to establish the extent to which the institutional development at the EU level has impacted upon the offshore health and safety policies of Europe's two leading oil and gas producers, Britain and Norway. Furthermore, the paper seeks to identify the relevance of the policy network literature to the analysis of EU policy making. A system of policy making characterised by the multi-level governance associated with the multiple access points and policy related interactions associated with transposing EU legislation into the national legal frameworks of the individual Member States and the affiliated members of the European Economic Area.

The EU should serve as a major influence on offshore health and safety policy. The historical role of the EU and its earlier variants in health and safety extends back to the ECSC and the Treaty of Paris. Indeed, the post-SEA escalation of social legislation was for a period dominated by health and safety (Cram 1997: 103). With such levels of activity the membership and outcomes of offshore health and safety policy networks in Britain and Norway should have altered to reflect the institutional developments associated with the alteration of existing centres of competence. The expansion of EU level competencies since the ratification of the Single European Act undermines Sabatier and Jenkins-Smith (1993: 21) in their classification of the 'basic legal structure' as a stable external parameter serving as a constant external influence for policy oriented relationships. The integration of Europe is a developing process that necessitates adaptation on the part of governments and societal interests.

Marsh and Rhodes (1992: 257-8) identify institutional change, such as the increasing importance of European Union as a policy-making arena, as one of four broad exogenous factors impacting on policy networks. However, networks are argued to mediate change

(Marsh & Rhodes, 1992: 260). The context of policy network activities may alter due to institutional developments outside the network. However, the network itself mediates the precise nature of change.

The exogenous environment is a key influence on policy network activity. It can effectively alter the context of networks and redefine the viability of members by altering the basis of resource dependent relationships. Thus, the parameters of exclusion or inclusion are related to the definition and distribution of resources within the broader policy universe. The skill of the network and its enduring significance are crucial factors in the capacity of the policy network to mediate change (Marsh, 1998: 196).

Traditional conceptions of policy networks emphasize them as a source of 'inertia' -not innovation. Economic interests/professional are regarded as 'the most resistant to change' and the degree of change "is contingent upon the salience of the issue and is most likely to occur at the periphery" (Marsh and Rhodes, 1992: 261). Given the significance of European integration forces and the extent to which the EU has become the centre for health and safety policy making, the impact of EU legislation on national policy networks should be significant also.

However, institutional developments and shifting centres of regulatory competence over an area do not necessarily signal a change in the membership or outcomes of existing policy networks within the Member States. Instead, the fundamental basis of the policy oriented relationships characterising the routine of decision making may be preserved and the existing policy network will be charged with the interpretation and implementation of legislation. In the case of health and safety, the use of Directives itself facilitates the interpretation of legislation to reflect national practices. The built in flexibility associated with European Directives offers national government agencies and stakeholders the opportunity to define key aspects of legislation in line with existing national interpretations.

In addition, the rhetoric of an EU style of policy making does not automatically correlate with the reality of the multi-level governance evident in the development and implementation of EU level decisions. The civil servants involved in policy drafting are open to relevant technical assistance from representative interests. Given the multiple

access points and the various stages of policy oriented activity, there are questions to be raised concerning the consistency of relationships associated with EU decision making. Similarly, there is uncertainty as to the extent to which we can accurately suggest that the network literature is adequate to deal with the complexity of EU decision making. Indeed, the strong reliance of EU institutions on the implementation role performed by national administrative agencies suggests that there is a significant level of flexibility afforded to government agencies and relevant societal interests in interpreting and implementing EU legislation.

Existing relationships within Member States are challenged by the institutional development at the EU level. However, the preference within the Commission and the European Parliament for social dialogue as a means of establishing standards and defining legislation is not matched with a commitment to establish uniform definitions of consultation and participation in the health and safety environment. This issue clearly marks a break in the capacity of EU safety legislation to achieve a comprehensive and uniform application among the Member States.

The dominance of economic and professional interests is recognised within and beyond the policy networks literature (Marsh and Rhodes, 1992: 264; Wilks and Wright, 1987: 293). The capacity to retain a key presence in the nationally based policy network reflects the significance of economic interests in the shaping of offshore health and safety. However, there are inconsistencies in the wide disparity of power distribution associated with workforce participation through organised labour representatives. In Norway there is a well-established and legally based role for workers in participating fully in health and safety. This role extends to a legal right to halt work if safety is judged to be at risk. In contrast, the UK system has a greatly reduced role and the issue of an independently organised workforce remains controversial. Participation itself means nothing without assessing the influence of actors. Richardson and Jordan, (1979: 45-46) argue that “consultation can be essentially a process of exclusion”. There is a distinction between groups recognised by Departments and those defined as “principal groups”. Participation can equate with the unwitting legitimisation of decisions. Certainly, at the EU level there has been an historic tradition of ensuring the support of organised labour

in the integration process by linking social and economic progress. This linking of economic and social development has been crucial in maintaining a broad support for the integration process (Haas, 1958; Geyer, 2000).

What is less clear is the extent to which the activity at the EU level has corresponded with a relative impact on policy within the Member States. At the national level the British literature has noted the limited role played by non-economic interests. Of particular importance to this study is the role of the workforce and organised labour. At the heart of the issue of health and safety is the issue of the adequate representation of the workforce and the capacity of their representatives to engage in substantive dialogue to establish the basis of effective policies. The level of participation characterising trade union activity is dependent on certain conditions and is not regarded as a formality. Indeed;

"...they [trade unions] are drawn into consultations with the government when the dominant non-governmental interest in the network thinks that their contribution would support that dominant interest's views"(Marsh and Rhodes, 1992: 264).

While this economic dominance should be regarded as an obvious reflection of a capitalist economy it neglects subtle differences within modern capitalist systems. What it does is to define the economic credentials that establish the resources of network members. What it neglects is the differences that exist within Europe in relation to the balance between economic and social forces. The defining of legitimate resources within bargaining relationships is a battle being fought at multiple levels and is at the heart of the continuing uncertainty over the commitment to substantive developments in health and safety (Vogel, 1998). This ambiguity is found in the absence of an EU vocabulary offering a uniform definition of legislation emanating from Brussels. This ambiguity does nothing to alter existing dominance within Member States and allows for nationally specific interpretations that undermine the suggested objective of harmonised conditions associated with the integration process itself. The argument forwarded is that EU legislation can have a limited impact on the policy environment at the national and sub-national level. However, the process of interpreting the spirit and letter of EU Directives

is placed in the hands of existing vested interests at the sub-national level or at the point of sectoral policy implementation.

EU policy networks

The relevance of EU level policy making is one that has developed over the years and has become of ever increasing significance since the mid-1980s. As Pollack, (1994: 95) suggests, in the initial period the European Community had no specific sectoral policies (environment, regional, etc.). The importance of EU-level policy making is very real with the case of health and safety being a noteworthy example. The post-SEA period has witnessed a 'significant increase' in EU-level social policy (Cram, 1997: 103).

The significance of the EU is felt not only in the influence upon policy-making, but also in the conceptualisation of the policy process itself. Rather awkwardly, the EU has continually refused to co-operate by fitting into a generally accepted model of agenda setting through to policy implementation. As Richardson (1996: 4-5) argues:

...it may be mistaken to look for one model of the EU policy process. Within the EU, policy can be determined at a number of levels and, as at the national level, the policy process goes through a number of stages. Also, particular policy areas may be episodic themselves, exhibiting different characteristics in different periods of time.

What we are left with is a tangle of complex relationships that are further compounded by a wide range of independent variables affecting the context of policy-related activities. There appears to be no predictable force regulating sectors or national-supranational interactions. It should become apparent that a major problem in Europe is that even those with an interest and an historical presence in the development of a specific policy process may not be aware of what is happening. Certainly in the author's experience there is ample evidence that even those with an interest in a policy area can lose track of the policy itself if they themselves do not maintain contact with the Commission and the Parliament. Relationships are less stable than at the national level. This is unsurprising given the sheer volume of interested parties. The extent of meaningful participation, for many, may be at best transient and what we are attempting to decipher is what actors and interests prevail through the process of broader, less stable policy oriented interaction.

The utility of policy networks at the EU-level

Kassim (1994: 15-16) acknowledges the utility of the policy network concept in addressing the disaggregated nature of EU policy making as well as the capability to analyse institutional and societal actors within the process. However, the complex nature of institutional arrangements is regarded as being too great for the policy network approach (Kassim, 1994: 16). The failure to capture the 'elusive fluidity' of EU decision making is for Kassim (1994: 20) evident in the fact that:

The multinational nature and the functional scope of the competencies of the EU have contrived to produce a system that is characterised by a high degree of flexibility, fluidity and improvisation. Decisions are taken in a range of different and constantly changing institutional settings and at different levels, their locus itself often being the subject of negotiation and compromise. Coalitions between institutions and interest groups tend to be short-lived and shifting. Moreover, policy sectors invariably segment into policy areas and policy areas into policy issues.

One weakness of this criticism is that policy networks appear ideal for conceptualising such fluid arrangements. Relationships characterised by such flexibility and transience are easily classified as resembling issue networks. The ad hoc nature of interaction and the fluctuating membership along with the rather fluid structure are factors already acknowledged within the policy network literature. Indeed, the policy network literature related to the EU level policy process tends to stress the issue network as the most evident form of policy network (see Bomberg, 1998; Peterson, 1992). As Peterson (1995a: 392) suggests, "the policy network model treats 'stability' and 'continuity' as variables, not assumptions" (original emphasis).

This criticism of the policy network approach appears to be based on the tighter integration assumed at the policy community end of the Marsh and Rhodes continuum. Indeed, arguing that a weakness of the policy network approach is the failure of 'patterns of interest intermediation', Kassim (1994: 21) assumes that interest intermediation is a characteristic of all policy networks and of all network members. This misconception is also echoed by policy network advocates such as Peterson (1995a: 391) who argues that "mediation implies that networks are usually settings for the playing of positive-sum

games". However, such mediation, intermediation and positive-sum games involve characteristics not prescribed as relevant to issue networks or their. Intermediation is clearly relevant to more stable and predictable relationships. Issue networks are not defined in such terms, and while a basic structure and order may be discernible there is no suggestion of the process of intermediation for issue networks.

One criticism which does deserve greater attention is Kassim's (1994: 22-23) assertion that:

The EU's institutional density means that there are multiple points at which intra- and inter-institutional interaction takes place. With respect to intra-institutional negotiation, bargaining within the Commission may take place within the relevant unit, within the Directorate General, between the services and the Commissioner and his or her cabinet, between Commissioners within the College. Intra-institutional bargaining also taken place in intergovernmental negotiation in the Council of Ministers. Inter-institutional interaction takes place between the Commission, the Council and the European Parliament.

The range of relevant policy actors at the national and supranational levels serves to undermine the utility of the policy network model. Daugbjerg (1996: 44) suggests that:

In order to use network analysis at the EU level, we need to achieve a better understanding of the EU policy process; that is, to know whether and when EU or national policy networks become important determinants of policy.

This complex system of institutional interaction is something that hampers any clear conceptualisation of the developments surrounding European level decision-making and is a result of the rather unpredictable nature of EU level policy making itself. The capacity of societal actors and EU institutional actors to define innovative strategies for the development of EU level competence and implement EU level decisions is one that highlights the rather ambiguous nature of EU level policy making.

As Richardson (1996: 5) suggests:

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time. Different models of analysis may be useful at different levels within the EU and at different stages of the policy process.

Thus, for Richardson (1996: 5) policy network approaches may be useful for analysing the process of policy formulation, but will be less adaptable to analysing the process of agenda setting, arriving at policy decisions and policy implementation. The institutional complexity of the EU does make the initial process of agenda setting extremely difficult to identify.

Daugbjerg (1996: 44) argues that policy networks may be deficient in relation to analysing the process of final decision-making, but that it can offer an enhanced understanding of the development of Commission proposals. In particular, the limited bureaucracy within the Commission necessitates societal input to the process of policy formulation at the Commission level.

The Commission is evident does have the central role in developing EU policy. Mazey (1994: 3) argues that:

In terms of institutional structures, there is a heavy concentration of power, in the policy formulation process, within the bureaucracy—namely the Commission. Both in terms of the Treaty of Rome and in terms of the practical realities of much of the EC policy-making, the EC bureaucracy is the key policy actor. It is the engine driving much of the EC legislative process.

The significance of the Commission is evident in formulating policy as well as its concern with driving the integration process forward. National governments do not necessarily resist further integration because of the 'logical' concern with retaining autonomy. The support for a shift towards an EU level policy competence in given areas will suit governments at the national level as it adds to the capabilities in resisting specific national demands. Similarly, business interests, particularly larger enterprises may see a logic in further integration, but are aware that such a process requires a broad coalition and a process of harmonisation. Therefore, significant social consensus must be sought to ensure that integration has a range of interests as support. Furthermore, supranational institutions and the Commission in particular, are concerned with the process of integration directly and have been shown as more than willing to utilise

whatever framework is available in order to enhance the Commission and the EU's competence. Such an agenda is not merely about empire building. The promotion of the integration process is a fundamental part of the Commission's *raison d'être*.

However, that is not to suggest that the expansion of formal competence at the EU level is characterised by an increasingly centralised process whereby decisions have a particular 'European' flavour and are achieved through innovative institutional developments. The reality may be more akin to symbolic responsibility achieved through the limited application of implicit objectives.

What is significant about the policy network approach as a framework for analysing policy formulation at the EU level is its capability to recognise the significance of state and societal actors and the interaction between the two in the process of European integration. This process necessitates the recognition of multiple layers of governance whereby broad objectives are interpreted within existing institutional arrangements.

What the policy network approach does is to offer the capability to analyse policy development over time and identify key actors and significant trends in EU level policy making. It is certainly the case that there is a lot more to analyse with regard to the EU level policy process than there was twenty years ago and the significant developments of the post SEA period are directly related to it. Thus, the capacity to focus on the policy process and recognise the wide range of agenda setting actors and the complex, often confusing nature of policy making is in contrast to the rather limited and predictable inactivity of the pre-SEA period. The shift in institutional powers involving supranational and intergovernmental actors has had a profound impact, but this has not occurred in isolation from societal pressures. Indeed, many of the controversies surrounding the broader objectives of EU policies are evident at each stage of decision making through to the more precise level of shaping policy in line with the interpretations of individual Member States and specific industrial sectors.

In Table 1, Peterson (1995: 71) identifies three levels of analysis towards observing some order in the EU policy process: super-systemic, systemic and sub-systemic. The super-systemic level of analysis is concerned with the 'history-making' decisions which "alter the Union's legislative procedures, rebalance the relative powers of the EU institutions,

or change the EU's remit" (Peterson, 1995: 72). Such developments can be demonstrated through the significant impact of the Single European Act or the Maastricht Treaty and the decision making rationale is primarily political with national governments weighing up the positive and negative consequences associated with accepting and supporting a decision (Peterson, 1995: 72).

Of more significance to this study are the systemic and sub-systemic levels of policy setting and policy shaping. At these levels we begin to identify the range of familiar actors, economic interests, national government representatives and EU institutional actors. There is a familiarity in the process and there is a causal relationship between groups and decisions. As Table 1 identifies, the rationality of behaviour at the systemic and sub-systemic is founded upon political, technocratic, administrative, and to an arguable degree, consensual approaches to decision-making. The identification of distinct levels of activity facilitates the conceptualisation of the processes involved in shaping the broader political and economic environment and the impact this has on the more disaggregated policy shaping process.

Table 1. Peterson's multiple-levels of analysis in EU-decision-making

<i>Level</i>	<i>Type of decision</i>	<i>Dominant actors</i>	<i>Rationality</i>
<i>super-systemic</i>	history-making	European Council National governments in IGCs; European Court of Justice	political, legalistic
<i>systemic</i>	policy-setting	Council of Ministers, COREPER	political, technocratic, administrative
<i>sub-systemic</i>	policy-shaping	Commission, committees, Council groups	technocratic, consensual, administrative

Source: Peterson, (1995: 71)

The identification of the multiple layers of the super systemic, systemic and sub-systemic levels allows for policy network activity to be conceptualised in relation to direct involvement and participation at the sub-systemic level. The capacity for groups to interact at the level of the Commission, and increasingly the Parliament, is most clearly evident in the proliferation of activities at that level. In addition, nationally defined strategies can impact on national government responses to systemic developments.

Indeed, the complexity of policy-making at the EU level is one that is of immense significance to an industry of the economic and political might and diversity of the international oil industry. The resources of the individual oil companies, as well as within aggregated national, European and Andersen & Eliassen (1993: 14) suggest that:

...the pattern is not fixed. On the contrary, effective participation in the policy-making process stimulates actors to operate wearing different hats, in different political channels and in changing coalitions.

It is this fluidity in EU-level policy making that makes the shifting political environment at the EU level and at national levels so significant. The changing government at the national level can constrain or facilitate societal actors in their capacity to influence EU level decision making and implementation.

Therefore, the capacity to analyse state-societal interaction and the resources and strategies of key actors is of significant utility to the understanding of the policy process and the process of European integration. The identification of the links between policy oriented activity at a disaggregated level of policy making to broader concerns with developing supranational competencies and institutional consolidation is central to producing a general picture of the processes and the forces involved.

The relationship between the super-systemic, systemic and sub-systemic levels of activity are particularly significant as the process of sub-systemic activity can often reveal super-systemic strategies. It is the skill and political will of actors in utilising the 'history making' decisions which makes them just that. The Single European Act would not be so 'history making' without the Commission's decisive and skilful interpretation of it. It was the willingness of the Commission to utilise the SEA and to find enabling procedures within it for the process of European integration which made the Act so significant. It

was the Commission's activities that emphasised the importance of the SEA beyond the procedures associated with establishing a single economic market. Similarly, the recognition of the need for broad support for the integration process and the need to establish some balance between the economic and social development of Europe that created a super-systemic basis for the Commission's subsequent initiatives.

Making order out of chaos

Bomberg (1998: 175), notes the 'contradictory' nature of national and EU level environmental policy making and the bargaining within policy networks is argued to lead to "a 'policy mess' or a 'constantly changing policy' as different actors gain the upper hand and attempt to implement a policy...". This observation is one of chaos without the recognition of the broader support structure that serves to give a logical focus for EU level policy and which increasingly sets the parameters of national level decisions. For example, the growing competence of the EU in the formulation of social policies and environmental policies cannot be isolated from the process of harmonisation stimulated by the integration of the single market (Geyer, 1999). This is certainly not a recent phenomenon and has been identified as a major theme in the process of integration since the earliest days of its conception (Haas, 1958).

There are significant difficulties in conceptualising policy networks at the EU because of the complexity of developments in terms of agenda-setting and the policy development at multiple layers and multiple centres of policy making competence. However, the development of Peterson's (1995: 71) approach does allow for the multiple layers to be analysed in relation to organisational strategies and their direction of strategic action to recognised points of access.

More significant is the impact that the international oil industry and its representatives within the UK offshore sector are able to exert in shaping EU level decisions. The argument forwarded here is that multi-level governance is the most effective way of conceptualising the relationship between different layers of government and most accurately reflects the complex and fragmented interaction between actors at multiple levels of decision making. Ultimately, the paper argues that national, rather than EU level policy networks, are most significant in shaping policy. The powers that exist at the

national level to interpret and implement EU level decisions result, not in uniform standards across the Member States, but in a national interpretation of EU level objectives.

The impact of EU health and safety policy making may be limited and the use of Directives and general principles do little to enhance the substantive contribution of EU level decisions. However, it may also reveal much about the broader divisions that exist in relation to the EU and European integration. The future of the EU is in the balance and there is evidence of concerns over the future of social developments and improvements in working conditions in the EU. The commissioning and conclusions of the Molitor Group Report, as well as a range of deregulatory and 'cost-cutting' initiatives that have served to "effectively combine to encourage a political climate unfavourable to the improvement in the working environment" (Vogel, 1998: 7).

However, the significance of existing policy networks within the Member States and EEA affiliates does not mean that EU institutions are meaningless in this process. Indeed, the impact can be profound in establishing the template within which subsequent sectoral or national refining of policy is achieved.

None of the EU institutions associated with the development or interpretation of legislation can be discounted and all have important inputs in defining the parameters of sectoral and national policy shaping.

Health and safety and the EU

Health and safety is an issue with an extensive 'European' pedigree. From the ECSC the issue of occupational health and safety has been one issue where Member States have coordinated activities to develop research and disseminate information to minimise risk. From 1957 and the early period of European integration health and safety has been an area of institutional development with the establishment of the Mining Safety Commission, which from 1974 became the Safety and Health Commission for the Mining and other Industries (SHCMOEI), (Geyer, 1999; Social Europe, 1993: 17).

However, the real development in health and safety provision at the EU level has occurred within the general dynamic associated with the ratification of the Single

European Act. The introduction of qualified majority voting (QMV) for issues related to the establishment of the Single Market and for the improvement of the health and safety conditions of workers introduced a new impetus to the EU and ended a period of institutional stagnation. Indeed, such was the emphasis given to developing the EU's legislative competence in the area of health and safety that in 1990 it accounted for the entire social legislation output of the EU (Cram, 1997: 103).

The relative 'explosion' of EU legislative activity in the area of health and safety was based upon the European Commission's use of Articles 100a and 118a, the latter being the most significant and specifying the use of QMV for health and safety issues. Article 118a "aims at encouraging improvements, especially in the working environment, as regards the health and safety of workers", including the harmonisation of conditions (Clarke, 1995: 17; *Social Europe*, 2/90: 7).

The first legislative development in the post-SEA period was the 'Framework Directive' (89/391/EEC) concerned 'measures to encourage improvements in the safety and health of workers at work'. The Directive is primarily concerned with the:

...general principles concerning the prevention of occupational risks, the protection of safety and health, the elimination of risk and accident factors, the informing, consultation, balanced participation in accordance with national laws and/or practices and training of workers and their representatives, as well as general guidelines for the implementation of the said principles. (89/391/EEC)

The 'Framework Directive' established the legislative basis for subsequent health and safety legislation and in effect highlights the weakness of EU legislative provisions in that they are rooted in establishing regulatory provisions 'in accordance with national laws and/or practices'. The ambiguity surrounding specific terms and the flexibility of interpretation open to policy actors within Member States and industrial sectors undermines any objective concerned with establishing a 'European' approach to health and safety management.

This flexibility is fundamentally driven by the central role of stakeholders in the implementation process and the need for expertise in shaping policy. Thus:

...both the EU's multi-level character and policy remit encourage a sort of governing by co-ordination. Much EU legislation is decided in the form of directives, which set out a general set of objectives while leaving most details as to how they might be achieved to Member States themselves. To a considerable extent, the precise content of directives is determined later at a non-political level by various types of official, together with interested interest groups and lobbyists, in response to broad policy injunctions. Governments thus have incentives to engage with private actors, who 'have to be drawn into the policy networks because they provide necessary expertise and because effective implementation depends on their support' (Peterson and Bomberg, 1999: 22).

The impact of the 'Framework Directive' on British and Norwegian offshore health and safety systems is identifiable, but limited. The tailoring of Directives to national systems and the focus of the EU on general principles and the prohibition of specific substances does little to alter the focus of the health and safety provisions of Member States or affiliated EEA members.

In establishing minimum standards the Directive encouraged the development of national standards above the EU minimum (Article 1 (3)). Furthermore, the Framework Directive also included employer's liability for the maintenance of adequate health and safety conditions (Articles, 5 (2) and 7 (3)). A crucial part of the legislation is the creation of consultation procedures and the encouragement of employee participation including the obligation on employers to "consult workers and/or their representatives and allow them to take part in discussions on all questions relating to safety and health at work.

The Framework Directive states that the 'balanced participation' of workers in the development of the health and safety regime should be guaranteed. This guarantee should extend to any aspects likely to "substantially affect health and safety' (Article 11(2b)) as well as more specific areas such as the organisation of training (Article 11 (2e)).

There is a fundamental problem associated with interpreting terms such as 'balanced participation'. The capacity to influence policy is reflected in the distribution of power among the various stakeholders and regulatory agencies. In relying on national practices there is a danger that unequal distribution of power goes unchecked. Certainly, at the EU level there has been a great emphasis on fostering social dialogue between employers and employees representatives. As much as the preference in EU consultation and committees is for social dialogue and the active participation of the social partners, the reality of UK practices in the offshore industry undermines this preference. Thus, Hughes (1993: 29) states;

In the context of offshore safety there appears to be effective participation and contributions from both sides of industry at the level of the HSE where new legislation is being created. In this case it is the various offshore trade unions which are being given the opportunity to participate. They have recognition from the HSE that they represent the workforce...However, at the installation level, where trade unions are not recognised by the employers, the representatives of the workforce are considered to be the safety committees...the safety committee structure is not the ideal means of representing the workforce. Neither is there balance between the two sides at the installation level.

Therefore, The significance of trade union influence at the UK offshore level is debatable in the light of the continued problems associated with obtaining recognition and participating in the maintenance of the offshore safety regime. As such there is the suggestion that the role of trade unions at the level of consultation with the Health and Safety Executive is limited because of the absence of a significant role at the installation level. The existing imbalance in relations at the installation level negates the logic of worker participation as the obstacles to workers' organisation at the installation level is at odds with the organisational capacities of the employers at company level as well as at the higher level through employers' organisations.

The changes that are evident in the UK offshore sector are, in part, motivated by the UK Government's, Employment Relations Act (ERA), which has certainly altered the context of offshore industrial relations and the distribution of power between the employers and employees. However, there are still significant hurdles to overcome in relation to the

recognition of workforce demands for organised representation. However, the virtual formality of the success of the current UK Government in the imminent General Election means that the industry has to work within a framework where the ideological impact of government is likely to remain stable for the foreseeable future.

The Safety and Health in the Extractive Industries Directive 92/91/EEC, referred to as the 'Piper Alpha Directive' (Hughes, 1993: 29), is a mixture of prescriptive minimum standards and goal setting recommendations. As such it is consistent with EU legislation, broad sweeping in its objectives with standards established at a relatively low level. There is no obligation to demonstrate compliance with the latter aspects of the legislation on the part of the offshore operator.

The Piper Alpha Directive does not greatly expand beyond the Framework Directive, although it does reiterate the requirement to establish balanced participation and that information concerning the health and safety of the workforce should be produced in a clear and understandable manner (92/91/EEC; Article 7).

Government Agencies and EU decision-making

The interpretative capacity of nationally based networks is influenced by the strategy adopted by regulatory agencies. Health and safety is a case where the substance of EU decision making is unlikely to impact greatly on the social provisions at the national level. However, the general strategy of regulatory agencies can reveal the political preferences of government to the issue of social regulation and can demonstrate the extent to which the health and safety system is dynamic and progressive as opposed to ensuring compliance and a reactive capability.

The predictability of policy shaping at the national level, interpreting EU Directives through existing relationships and practices helps to mediate the impact of institutional developments at the supranational level. As Peterson and Bomberg (1999: 23) state:

...most interest groups in Europe continue to focus the bulk of their lobbying at the national level, where most of the resources are held that groups want or need. Relationships between interest groups and national

administrations are usually more long-standing and routinised than is the case at the EU level. The result is that the national level is more likely to breed stable, tightly integrated networks, or 'policy communities', which strictly control access to the policy.

At the heart of this predictability and routine policy relationship is the administrative focus of regulatory agencies and the political leadership that governs implementation strategy.

Norway and EU Regulation

The Norwegian relationship with the EU is shaped by its membership of the European Economic Area (EEA). Although not a member of the EU the EEA status effectively means that Regulations and Directives at the EU level are implemented in Norway. Therefore:

According to the EEA agreement, EU directives shall be implemented in the offshore petroleum legislation to the extent this type of activity is embraced by the directives. Technical directives have to be reflected in full compliance with the directives, while the minimum directives define the minimum standard to which the Norwegian legislation must comply (NPD, 1997).

Although Norway's EEA status suggests that it is effectively outside negotiations at the EU level there is the 'suggestion' that Norway was a member of the EU whether the people of Norway knew it or not. Norway implements EU decisions and participates in the development of such legislative provisions. The Norwegian process of influencing the legislative process at the EU level is achieved through the back door through British or Danish representations. The indication given to the author, in Norway by an unnamed source, was that the Norwegian electorate may not know it, but that Norway functioned as a member of the EU, implementing legislation and influencing through contacts with other Member States.

However, where the situation is misleading is that the offshore regulatory agency, the Norwegian Petroleum Directorate (NPD) has minimal concern with EU health and safety

provisions. The EU preference for establishing minimum standards means that the higher standards enshrined in Norwegian legislation easily meet the requirements of EU social policy. The reality is that through the Working Environment Act and Petroleum Act and associated Regulations the standards and provisions emanating from the EU are unlikely to necessitate action to ensure compliance. This rather distanced relationship is evident in the limited contact between the NPD and EU institutions, namely observer status in the SHCMOEI (NPD, 1997).

The limited relationship between the EU and the NPD is consistent with the limited impact that EU social legislation based on minimum standards has on more developed national systems.

The HSE and EU Regulation

The HSC and HSE policy towards the implementation of EU legislation is evidence of the significant flexibility and adaptation within the EU and between the member states. The HSE position is concerned with the following:

- implementing fully and on time;
- not to go beyond its requirements unless there is a clear need to do so;
- to avoid disrupting or weakening the existing framework of UK health and safety law;
- to reform existing UK law where it is appropriate to do so;
- to further the HSC/E philosophy of introducing control measures that are appropriate to the risk; and
- not to place unnecessary burdens on business. (HSE, 1997a).

The HSE response to EU level regulatory provisions is centred on the interpretation associated with the commitment to implement fully and on time within the subjective parameters of 'unnecessary burdens on business'. The stated position is to follow the

letter of implementation rather than to develop a dynamic system of health and safety improvement and is, arguably, ignoring the spirit of EU health and safety legislation.

The level of interface with EU legislation necessitates the development of complex networks of governmental actors within the EU and the member states and EEA. The HSE is involved with a wide variety of health and safety working groups and informal relationships with other Member States' experts as well as on Commission advisory committees etc (HSE, 1997a). However, paradoxically, the HSE is not the automatic lead department in developing health and safety legislation. In the case of the Working Time Directive (See below) the Department of Trade and Industry is charged with shaping policy and the HSE will have ultimate responsibility for enforcement.

The growing competence of the EU has meant that national governmental agencies are increasingly reacting to and participating in activities and decisions emanating from the EU-level policy process. What is not clear is the extent to which EU level participation is replacing national relationships. For all the institutional innovation surrounding health and safety at the EU level there remains a significant emphasis on existing relationships at the national or sectoral levels.

What is evident is that the standards at the EU level, based as they are upon general principles or the prohibition of specific substances are interpreted at the national level and the approach adopted by the HSE suggests literal compliance, whereas in Norway the existing standards make compliance a formality.

Working Time Directive and the exclusion of the offshore industry

The legislative progress of the Working Time Directive and its extension to the offshore oil and gas industry proves an informative example of the complex nature of EU level decision making and policy shaping. The activity and controversy surrounding the Working Time Directive demonstrates the often misleading flurry of legislative activity and questions the extent to which the process itself achieves a substantive development in policy. Indeed, the European Parliament Report on the extension of the Directive to the excluded sectors (including the offshore oil and gas industry) commented that:

All in all, the directive has not become a model of progressive European social policy, merely the lowest common denominator, which, given the protective legislation that already exists in the Member States, has led to virtually no change in the working conditions of workers, except in Ireland and the United Kingdom. (Chanterie, 1998).

In developing minimum standards, the lowest common denominator approach to social policy is consistent with the expansion of EU competence within the limited budgetary constraints defined by Majone (1994) and Peters (1992). Furthermore:

As in federal systems, the EU is the scene of dilemmas associated with shared decision-making. It is thus prone to 'least common denominator' solutions, which offend few policy stakeholders, or actors with an interest in EU decisions but may not solve policy problems very effectively (Peterson and Bomberg, 1999: 17).

This development of regulatory competencies establishes the Commission's presence without committing to large-scale financial commitments. The EU is established as the central policy arena for health and safety policy. Yet, the reality is something else, with little substantive impact on traditional policy oriented relationships and policy outcomes within the Member States or EEA affiliates.

The Directive itself was adopted by the Council of Ministers on 23 November 1993. The issue of working time has attracted its fair share of controversy and has yet to be successfully extended to cover workers in the offshore oil and gas industries. The legislation itself is concerned with establishing maximum mandatory working hours, minimum daily rest periods and breaks as well as stipulating a minimum four week annual paid holiday. In addition, the Directive also included provisions for maximum average working hours for night work. (93/104/EC).

At the initial stages of policy making, where the main participants were European level social partners, there was clear opposition from the Union of Industrial and Employers' Confederations of Europe (UNICE). From October 1990, UNICE challenged the Commission and the Council in their use of Article 118a as it "does not mention working time and it is clear there is no intention of harmonising working hours in the EC"

(UNICE, 1990: 1). The UNICE response was broad in its scope and challenged the principles of the legislative proposal as well as specifics concerning the safety risks of night work. Particular emphasis was placed on the inflexibility of the Directive and its financial implications for SMEs and its implications for local collective bargaining. The preferred option advocated by UNICE in the event that “the EC cannot do without a Directive” was the ‘New Approach’ Directives that limit the legislation to objectives of minimising health and safety risks and establish ‘optimum shift patterns, to suit individual circumstances” (UNICE, 1990: 2). UNICE noted that the final proposals adopted by the Commission (COM (90) 317 final) had taken its view into account but stressed the need for further improvements in the legislation (UNICE, 1990: 2).

In its detailed assessment of the Commission Proposals, UNICE (1990: 3) argued that:

The minimum daily/weekly rest period need not be the same in each Member State. They can be fixed nationally or locally, perhaps with sectoral variations, to meet individual circumstances.

Furthermore, sectors including ‘working on oil-drilling platforms’ were identified as specific areas where the Commission “cannot (or should not try to) legislate centrally” (UNICE, 1990: 3).

The Commission's original proposal for a Directive on working time covered all economic sectors and activities. The Council decided, however, to exclude certain sectors and activities from the scope of the Directive. The precise wording regarding the scope of the 1993 Directive is that the;

Directive shall apply to all sectors of activity ... with the exception of air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and the activities of doctors in training (93/104/EEC).

This attention in Council suggests that national and sectoral interests were able to influence national governments in their actions in Council. The successful exclusion of specific sectors also suggests that interested actors were aware of the more stringent position adopted by the Commission and the European Parliament. There is every reason to suggest that the strategy adopted by economic interests in targeting national

governments was an indication of an awareness of the multiple levels of access and influence associated with EU decision making. The exclusion of certain sectors successfully circumvented the Commission's initial position with regard to the legislation and the coalition of support evident within the European Parliament for a comprehensive regulation of working time.

The level of policy setting activity at the systemic level suggests influential bargaining. This process, while culminating in secret negotiations is nevertheless highly significant in the impact it has on future policy shaping. Thus, the emphasis is on influencing proceedings at the earliest points of negotiation. Indeed, there is little point in becoming involved after key decisions have been made. The importance in influencing decisions at the earliest period of legislative development may mean the difference between influencing proceedings and reacting to an established agenda. Therefore, national governments and national interests must engage in the pre-legislative stage to set the agenda for future legislative progress. Thus:

The EU depends fundamentally on its ability to forge consensus between a wide variety of decision-makers before policies may be 'set'. It thus requires extensive, informal, 'pre-legislative' bargaining over the shape of most proposals before they have any chance of being accepted (Peterson and Bomberg, 1999: 22).

The UK legal challenge

The UK Government mounted a legal challenge, consistent with the position articulated by UNICE, questioning the use of Article 118a as the legislative basis of the Directive. The UK Government argued that Article 118a was adopted as the legal basis of the legislation in order to avoid a vote based on unanimity. The legal challenge questioned the interpretation of regulating working time as a health and issue. The UK Government argued that there was no proven link between working hours, rest periods etc. and health and safety. The UK Government also suggested that the legislation was concerned with employment creation as the issue of regulating working hours had first emerged as an employment issue in the early 1970s (ECJ Case C-84/94, 1996b: 6).

The European Court of Justice rejected the UK Government's case. The ECJ ruled that Article 118a, was the relevant legislative basis for the regulation of working time and that:

There is nothing in the wording of Article 118a to indicate that the concepts of 'working environment', 'safety' and 'health' as used in the provision should, in the absence of other indications, be interpreted restrictively, and not as embracing all factors, physical or otherwise, capable of affecting the health and safety of the worker in his working environment, including in particular certain aspects of the organization of working time (ECJ Case C-84/94, 1996b: 6).

The one 'victory' in the UK case against the Council was with regard to the mandatory rest period of twenty-four hours being defined as including a Sunday. This provision was annulled in the Judgement of the Court (ECJ Case C-84/94, 1996b: 14), although not specified in the Opinion of the Court (ECJ Case C-84/94, 1996: 29).

Working Time Directive: bringing the excluded sectors back in

British and Norwegian approaches to the regulation of working time in the offshore oil and gas industries

The exclusion of certain sectors was based upon the recognition of specific circumstances associated with sectors of industry that effectively ruled out the complete transposing of the Directive to particular industrial activities. The sixteenth recital to the Directive states:

whereas, given the specific nature of the work concerned, it may be necessary to adopt separate measures with regard to the organization of working time in certain sectors or activities which are excluded from the scope of this Directive (93/104/EEC).

The Working Time Directive is problematic for the offshore oil and gas industry due to a number of factors. The restricted accommodation available on offshore installations usually necessitates the adoption of two twelve-hour shifts where one worker steps into

the bunk of another worker beginning his or her shift. The reasons for such a system are related to calculation of individual and total risks. This calculation attempts to minimise individual risk by reducing individual exposure to potential risk, but there are total risks associated with such actions due to the resultant requirement to increase the number of individuals at risk (Coshape, 1995: 23). Put simply, the adoption of three eight hour shift patterns offshore would necessitate the accommodating of an additional fifty percent increase in the workforce, thus increasing the number of individuals exposed to potential risks, both on the installation and in the process of arriving and departing from it. Indeed, one of the conclusions of the Coshape report associated risk in additional travel time by helicopter for offshore workers and concluded that such risks as well as other factors meant that traditional eight hour shifts would be “highly undesirable for offshore work for all parties involved” (Coshape, 1995: 29).

Therefore, the safety issues surrounding the need for an increased labour force necessary to achieve an equal shift pattern with onshore activities has justified the adoption of routine twelve hour shifts (and up to sixteen hour shifts) in the British and Norwegian offshore oil and gas activities.

In Britain and Norway there are significant differences in relation to the regulation of working hours and in defining working hours as a health and safety issue. Working hours are already regulated in Norway. Chapter X of the Working Environment Act (YA-001A, 1995: 72-82), stipulates maximum working hours and night work etc., but not all of the provisions extend offshore for the reasons mentioned above. Instead the key aspects of regulating working time in the offshore industry involve the calculation of annual hours. The annual total cannot exceed a weekly average of 36 hours when divided by 52.14. Therefore, 1877 hours can be rostered annually (Coshape, 1995: 12).

The situation in the offshore oil and gas industry in the British continental shelf is in contrast to the legal basis for the regulation of working hours in the Norwegian sector. Thus:

In the UK there seems to be very little legislation that applies to the working patterns of O.W.S., [Other Workers at Sea,] with conditions being decided by the interpretation of health and safety guidelines (Coshape, 1995: 13).

Importantly, health and safety guidelines are not binding and serve only as opinion. In addition, the system of employer based management of work rostering and monitoring in the British offshore oil and gas industry is in contrast to the general pattern of regulation within the industry. The general pattern identified was through legislation or collective agreement, (Coshape Report, 1995: 10-13). The Report's concluding comments on the issue of monitoring working hours in the UK oil industry were highly critical. Thus:

In order for working hours legislation to be effective, the active participation of a regulatory authority is highly desirable. To be effective, regulation of the offshore industry needs to retain a degree of flexibility, in effect to stipulate conditions that will be adhered to for the large majority of the working time, whilst allowing extra hours or days to be worked when necessitated by circumstances. If there is no body to which details of deviation from the expected practice are reported, it can simply be flouted at will. The absence of any regulatory authority collating or periodically checking routine data can also make the collection of such data rather pointless (Coshape, 1995: 22).

Therefore, the regulation of working time in the offshore oil and gas industry requires a meaningful method of inspection and regulation that is arguably absent from the British sector. The monitoring of working hours by the Offshore Installation Manager is a requirement in Britain. However, the Coshape Report (1995: 21) found not only that "there is no routine scrutiny by any regulatory authority", but also found that there had been 'suggestions' that collection of accurate data had not been "strictly adhered to".

The desire on the part of the European Commission to extend the Working Time Directive to the excluded sectors is evident in the key co-ordinating role it adopted in establishing a consultation framework to facilitate social dialogue to arrive at mutually acceptable form of application of the legislation.

The proposals for the extension of the directive to the offshore industry was introduced through the formation of a committee of experts and through the commissioning of a report on the issue of offshore related working hours. The Commission's *White Paper on Sectors Excluded from the Working Time Directive* established four possible policy options:

- a non-binding approach;
- a purely sectoral approach;
- a differential approach; and
- a purely horizontal approach. (Commission, 1997)

The *non-binding approach* involves the issuing of Commission or Council Recommendations. Although not binding and still retaining the excluded status of the sector, Recommendations would be introduced with the explicit assumption that member states and social partners would work to ensure that workers had necessary rest periods and were not expected to work excessively long periods. It was this approach explicitly mentioned in the White Paper as being favoured by the offshore oil and gas industry. Certainly, UKOOA have maintained their preferences in relation to the extension of the Directive as "total exclusion of the offshore sector", but note that proposals have been forwarded for offshore workers to be classified as 'mobile workers' which would have limited applicability to the original Directive. (UKOOA, 1997: 6).

The purely sectoral approach, advocated by the European Trade Union Confederation (ETUC), is concerned with establishing a sectoral solution by establishing arrangements consistent with the Working Time Directive. This approach was the one that stalled under the veto of British oil industry.

The early attempts to establish a sectoral approach to resolve the issue of regulated working hours in the offshore oil and gas industry involved the Commission creating a committee of experts. Norwegian interests became involved as experts at the invitation of the Commission, despite protestations from some Committee members. Certainly, the

OGP were unimpressed with Norwegian working time arrangements being put forward as a model. The industry approach was to regard it as the Norwegian choice and reject it as a template for the industry as a whole (Raggett, 2000).

On a number of points there are important comments to be made. Firstly, the involvement of sectoral interests appears to have been focused initially in the area of exemption from what is a general legislative provision that could not apply to all areas of work. The role of the Commission and its leading position in defining participants in the committee demonstrates a definite commitment to the extension of the Directive to the offshore industry. The tactics of oil industry representatives, dominated by UK oil interests, in undermining the extension of the Working Time Directive to the offshore oil industry involved a multi-level strategy. The oil industry was able to have its influence tell in the successful exclusion of the offshore oil sector at the level of the Council. It has additional representation through its relatively recent membership of the CBI and a more developed role in the Oil and Gas Producers forum (OGP). In addition, UKOOA played a decisive role in undermining the passage of the extension of the Directive through Committee, where the Commission had attempted to ensure the progression and extension of the legislation through agreement between the social partners. As Jan Strømme, a participant in the Committee noted that the obstacle to the process of social dialogue came from the UK employers' representatives. There was also a representative from the (OGP), formerly the Exploration and Production Forum, the international oil and gas industry association charged with industry lobbying at the EU level. Certainly, UKOOA, the UK 'ffshore Operators' Association have consistently stated that they do not organise at the EU level, but channel their opinions and demands through the OGP.

What is certain is that the OGP, like UKOOA deny any mandate from their members to engage in social dialogue. As such, there is an incompatibility in negotiating structures between the UK industry and other sectors in Europe. This is despite the fact that the major oil companies that dominate the industry are found in both Britain and Norway, with social dialogue possible and prevalent in Norway and non-existent in the UK.

This corresponds with another unnamed source within the oil industry that indicated that the problem with activities at the EU level was that they assumed the progression of legislation through social dialogue and that social dialogue did not exist in the UKCS. A point noted in the Commission's White Paper on the extension of the Working Time Directive to the 'excluded sector':

There is no EC level social dialogue in this [the oil and gas industry] sector. Trade unions wish for negotiations at EC level, or, failing that, a specific Directive. The employers' organisations, on the other hand, have been reluctant to take part in any EC social dialogue and indeed the main organisations state that they are not mandated to do so. They consider that the industry is well regulated and that there is no justification for EC legislation in this sector (Commission, 1997).

A committee of experts was established to consult with and facilitate the commissioning of a consultation report into *The Working Hours in 'Other Work at Sea'* (Coshape, 1995). The report was to be discussed along with the original conclusions of the Committee of experts. This never occurred and the White paper, published in July 1997, proposed an annualised working hours system for the offshore extractive industries.

The focus of the Coshape report anticipated the chosen option of the Commission, the differentiated approach whereby the Working Time Directive would be extended to all 'non-mobile' workers and that the application of the Directive would acknowledge 'existing derogations' based on the need for continuity and operational factors. In addition, the introduction of a mandatory four week paid leave, health assessments for night workers and the guarantee of 'adequate rest periods' and 'a maximum number of hours to be worked' (Commission, 1997).

The option of the differentiated approach acknowledged the problems associated with mobile workers and this was reflected in the Coshape Report (1995: 7). The Norwegian regulatory provisions, so influential in the development of the European Commission policy option, makes similar distinction in relation to activities associated with the movement of installation (Coshape, 1995: 7; YA-001A, 1995: 131).

The horizontal approach would simply rely on the 'clarification of Directive 93/104/EC and its application to all non-mobile work, or to ensure that 'adequate rest and four weeks annual leave' was applied to all workers not covered by Directive 93/104/EC (Commission, 1997).

However, the application of the Working Time Directive is as yet unclear in the United Kingdom continental shelf and is reflected in the questionable commitment to define working hours as a health and safety issue. The British Government's challenge of the Working Time Directive as a valid area for health and safety regulation, while rejected, is indicative of a general unwillingness on the part of governmental actors to treat it as such. The Government Department responsible, at least in the stages of the development of the Working Time Directive and during the stages concerned with its extension to 'Other Work at Sea' was the Department of Trade and Industry (DTI). The Health and Safety Executive, when contacted could make no comment on policy development and were concerned with the implementation of the Directive as they would any applicable EU legislation.

The DTI lead in the implementation of the working time Directive, including in the offshore sector, has developed into an employment relations issue. The level of contact with organised labour is suspect with a meeting with one offshore trade union being clearly described as 'an informational/clarification exercise' rather than it being construed as 'consultation'. What the meeting indicated was that the formula for establishing average working hours will be assessed over 52 weeks and will utilise leave periods (OILC, 2001).

The DTI have had a consistent role in the setting and shaping of the legislation acknowledging the initial exclusion of sectors as being essential, but arguing that the sectors were always intended to be covered by the legislation. However, 8 years on from the successful passage of the Directive and 11 years since the process began the Working Time Directive is yet to be applied offshore and any future Ministerial decision on the issue will have to wait until after the June 7 General Election (Wittington, 2001).

If inertia is an outcome of policy networks then the case of working time demonstrates the extent to which a multi-level system of governance can transform the substance of policy oriented activity. Thus, undermining the central objectives of EU legislation in its eventual application to the offshore oil and gas sector.

Conclusion

The development of an EU-level competence over health and safety has been achieved through a process of regulation based on general principles where the significant policy shaping powers have retained distinctive national characteristics. There is evidence of multiple points of access allowing significant influence to be brought to bear in order to set the parameters of legislative development. In the case of the working time directive there are clear signs that the UK government influenced the process of excluding certain sectors from the original legislation within the Council of Ministers. Neither the European Parliament, nor the Commission advocated such exclusions. Britain dominates the EU offshore sector, the UKCS having two thirds of the workforce and only one of two (Norway) major oil producers. The identification of 'other work at sea', later referred specifically as the 'offshore sector' in EP documentation, isolated the offshore oil industry as a key sector for exclusion. There are justified reasons for singling out the offshore oil industry from the specifics of the legislation and subsequent policy developments indicated that there was general agreement over daily working patterns and consistent night shift patterns.

However, the reliance on nationally defined transposition of the Directive has also revealed the inherent weakness in EU level health and safety regulation. The capacity for distinct interpretations and procedures for policy shaping and policy implementation does undermine the substantive impact of EU regulatory competence. What is apparent is that decisions may have little, or no impact on the health and safety conditions within the offshore oil and gas sector. This is not because existing standards are of a higher standard, but because the nationally interpreted process and substance of EU Directives effectively negates the opportunity for substantive policy impacts by mediating the mandatory introduction of regulations in a way that challenges the very basis of the legislation itself. In the UK, the Working Time Directive has become an industrial

relations issue rather than the health and safety issue it was intended to be at the EU level. Despite the legal basis of Article 118a the reliance on the DTI as the Department charged with its transposition into UK law and the further extension to the offshore oil and gas industry has effectively challenged the health and safety credentials of the legislation.

Table 2. Peterson’s Multi-level decision-making

Level	Decision Type	Dominant Actors	Example
Super-systemic	History making	European Council; governments in IGCs; European Court of Justice	White paper and SEA 118a of the Treaty
Systemic	Policy setting	Council; COREPER; European Parliament (under co-decision)	Establishing initial Directive, and achieving the exclusion of certain sectors
Sub-systemic	Policy shaping	Commission; Council working groups; EP committees	The extensions of legislation to excluded sectors
Domestic	Policy interpretation and implementation	Member State regulatory agencies; national based sectoral and sub-sectoral networks	Redefining working time as a Employment Relations issue; developing national agreements to achieve application of Directive to offshore industry

Adapted from Peterson & Bomberg (1999: 5)

Adapting Peterson’s model of multi-level governance it is essential to recognise that there are significant opportunities to further shape policy when establishing a national process of interpreting and implementing policy. Directives are constructed with the express intention of allowing for variable implementation. As such, the value of such legislation can be defined as taking two steps forward, and occasionally, two steps back. There is

something insidious about health and safety legislation that is so flexible as to render it without value. Health and safety legislation will seldom inconvenience the good employer. Its intention is to protect employees from the bad employer, the employer that pushes interpretations to the limit and beyond to minimise or negate the impact of regulatory development. The likely outcome of the UK oil and gas sector's compliance with the Working Time Directive will be that employees will work 84-hour weeks and more while being covered by legislation intended to establish a 48-hour maximum working week. Furthermore, weekly rest periods, night work etc. will not apply. Even at the margins of the legislation, the mandatory paid holiday period will not apply in consistent with workers in other industries. Effectively, the process of shaping policy in the offshore oil and gas sector has left tens of thousands of employees without substantive health and safety protection in relation to working hours. This failure to protect occurs within an industry characterised by a remote and dangerous working environment, where the monitoring of compliance is placed in the hands of the organisations that opposed the legislation in the first place. The 'passport' system intended to ensure control over offshore workers is argued to be of limited use due to technical difficulties. Offshore workers certainly have Vantage Cards, but the technology to utilise them is erratic. Even where the system may work there is still the problem of the industry's capacity for meaningful self-regulation of health and safety.

Policy Networks?

So where does this leave the policy network literature? Quite simply the jury is still out. In some respects the EU does offer an example of shifting membership and multiple access points that conform to definitions of issue networks. However, basic problems exist within the policy network literature itself. As a model to simplify the policy process there is little problem, but also little explanatory power. What is evident is that the EU offers a case where the sheer scale of activities makes positive statements and predictions virtually impossible. The fundamental objectives of the integration process, with its resultant institutional developments, have made the development of legislation through the QMV system possible. This has removed the capacity of networks or dominant interests within individual Member States to set their own policy agendas. However, the

legislative process itself necessitates the further intervention of these actors in the process. Indeed, the successful strategy is national. The success of achieving the exclusion of the offshore sector early in the development of the legislation was achieved in Council. As has been mentioned, the DTI have acknowledged that the exclusion was intended to be temporary. However, this does suggest that the concerns of industry and sections of government Departments were taken into Council negotiations.

At the EU level the problems evident surrounded the oil industry's inability to enter into social dialogue to reach consensus. This stresses the impact of incompatible structures and the overriding weakness of EU procedures when faced with organisations unwilling to work within the preferred working procedures at the EU level.

However, the essential role of industry in implementing legislation, magnified in the case of remote work such as that of the offshore sector, necessitates a central position in policy shaping. What is evident is that this role is hugely important and it emphasises the need to reintroduce nationally located relationships into our model of EU decision-making. The domestic arena retains a high level of significance. Certainly, in the case of the offshore oil and gas industry the UK industry is a dominant force within the EU Member States. Indeed, major oil companies dominate the oil industry with their global presence.

These factors, along with the broader conflict between economic and social interests within the EU may have more explanatory powers than reference to policy networks. The capacity to influence decisions within the Council and to shape policy again at subsequent levels is indicative of the exercise of power and the strong bargaining position of major economic interests. The structure of networks may more accurately reflect the output of policy were relationships are engendered to legitimise the decision-making process rather than having a role in the substantive influencing of policy outputs themselves.

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