

**“Overcoming the Divide” Between Comparative Politics
and International Relations Approaches to the EC: What
Role for “Post-Decisional” Politics?**

by

Andrew Jordan

**Paper presented at the 1997 European Community Studies Association
(ECSA) Biennial International Conference, Seattle, Washington, USA, May
29- June 1 1997 (Panel on ‘Implementation in the European Union’)**

**Centre for Social and Economic Research on the Global Environment (CSERGE), School
of Environmental Sciences, University of East Anglia, Norwich, NR4 7TJ, United
Kingdom**

Tel: (44) (0)1603 593176; Fax: (44) (0)1603 593739; E-mail: a.jordan@uea.ac.uk

“Overcoming the Divide”¹ Between Comparative Politics and International Relations Approaches to the EC: What Role for “Post-Decisional Politics”?

Abstract

Political scientists have normally considered the European Community (EC) from the standpoint either of international relations or comparative politics/public policy. Although the division between the two sub-disciplines is strongly rooted, it is increasingly viewed as a barrier to greater understanding of the multi-level, neo-state structure of the EC. It is argued that one of the most important impediments to greater cross fertilisation is the unwillingness of intergovernmental theorists to apply their models to day-to-day processes in more ‘mundane’ policy sectors. Yet such models would have much greater credibility if they could demonstrate that the steady accumulation and implementation of vast numbers of secondary statutes in these areas has not progressively and significantly undermined the autonomy of states by generating effects that were not fully intended at the time of their adoption. Using a case study of the implementation of EC coastal bathing water policy in Britain over the last twenty years, this article argues that closer investigation of the long term outcome of individual policies at the national and sub-national level provides a sounder basis upon which to adjudicate between the two main paradigms of integration, intergovernmentalism and neofunctionalism, than studies of short-term policy outputs emanating from the Council of Ministers.

1. Introduction

There was a time when study of the European Community (EC)² was the sole province of scholars of International Relations (IR). Indeed there remains an unresolved debate between those working in the state centric paradigm who regard states as the dominant actors and very much in control of integration, and those operating in the pluralist or neofunctionalist paradigm who ascribe greater importance to supranational actors and regard integration as complex, unpredictable and not fully within the control of state executives. The recent emergence of European public policy as a separate sub-discipline has pushed this debate into the background somewhat - some even regard it as “sterile” (Pollack, 1996, 429) and “debilitating” (Zito, 1995, 445). Yet it retains an obvious and enduring fascination for students of IR, and should not be neglected by those working at the meso-level. This paper advances the argument that studying the implementation phase of the EC policy process raises fresh questions and interesting puzzles that have not generally been addressed by scholars of IR. The study of policy implementation is arguably one of the most important but still neglected areas of European integration, which should, but currently does not, attract the attention of all students of the EC. Using a case study of the implementation of EC coastal bathing water policy in Britain over the last twenty years,

this article suggests that investigation of the long term *outcome* of individual policies at the national level provides a sounder basis upon which to adjudicate between the main 'paradigms' of integration than studies of short-term policy outputs.

2. The "Divide" Between Comparative Politics and International Relations

The recent exchange between Simon Hix (1994; 1996) and Andrew Hurrell and Anand Menon (1996) in the journal *West European Politics* raises important but unresolved questions about how best to theorise the EC. Hurrell and Menon argue, *contra* Hix, against a rigid distinction between "internal politics" (i.e. day-to-day policy development) and "integration" on the grounds that the two are intimately interconnected. Social scientists have to divide the world into discrete parts in order to describe and explain it (Becher, 1989), but Hurrell and Menon (1996, 398) believe that the Hix's dismissal of IR approaches only "reinforces an unhelpful divide" between IR and Comparative (i.e. national) Politics (CP) (or public policy analysis) approaches to the EC. Continuing separation, they believe, "is likely to be highly counterproductive" (*ibid*, 398).

Their exchange comes at a time when many scholars are challenging traditional conceptions of 'the state' and 'international politics' in their desire to understand the multi-level governance structure of the EC; hence calls for theoretical and methodological cross-fertilisation (Rhodes and Mazey, 1995; George, 1996, 23; O'Neill, 1996, 136; Risse-Kappen, 1996). There are many aspects of the EC which IR and policy analysis approach from different directions, and where greater cross-fertilisation would undoubtedly be of great benefit. The search, therefore, is on for ways in which to overcome the "divide" between the two (Hurrell and Menon, 1996, 397). Unfortunately, it is here that Hurrell and Menon's analysis is at its weakest. They only briefly note the need for IR scholars to take a more sophisticated view of the domestic basis of inter-state negotiations.³ George (1996, 23) similarly hints at hitherto unexplored parallels between the trans-national coalitions studied by neofunctionalists regard and the blossoming literature on European policy networks. No mention, however, is made of the potential - although largely untapped - contribution from students of policy implementation who address what Donald Puchala (1975) once famously termed "post-decisional" political processes at the national level.

Puchala argued correctly that non-compliance, which is now widely regarded as a systemic problem afflicting many areas of EC activity (Mendrinou, 1996), slows down the rate at which the harmonisation of standards can be achieved. For Puchala (1975, 518), "in order to understand European integration, we must devote at least as much analytical attention to postdecisional politics as we have been devoting to decision making." Sadly, his clarion call fell on deaf ears. Generally, the extant literature on implementation is dominated by lawyers and policy analysts (Jordan, 1996). With the exception perhaps of Gary Marks, disappointingly little effort has been made to relate studies of policy implementation to ongoing debates about the broader process of integration, despite the obvious point that integration will come to nothing if it does not translate into concrete change 'on the ground' at the national level (Jordan, 1997).

This paper argues that studies of the "post-decisional" phase unearth fresh insights which may help adjudicate between the claims made by intergovernmentalist and other state centric theories on the one hand, and neofunctionalist and other similarly pluralistic theories on the other. It is suggested that fundamental disagreements remain about the nature of the EC because analysts operating within the two paradigms concentrate on different aspects or *parts* of the whole. Thus state-centric theorists focus on the history making bargains and see states as being in control of integration, whereas diffusion theorists like Marks (1993) concentrate upon day-to-day processes such as policy adoption and agenda setting in more mundane functional sectors, and find greater evidence of pluralism. In Easton's (1965) terms, the debate between the two has hitherto concentrated upon policy *outputs*, that is the laws and policies employed to deal with problems, with considerably less attention paid to political *outcomes* (i.e. the longer term effect of these measures on the state of the world). It is argued that analysts should concentrate less on the short-term bargaining calculations surrounding the adoption of policies and the immediate effects they engender, and more on the long term consequences of policies in order properly to investigate whether integration has substantially undermined state sovereignty.

These claims are investigated using a case study of a specific area of environmental policy in one Member State - Britain - over the last twenty years: coastal bathing water. The two main planks of EC policy in this area are the 1976 Directive on bathing water and the 1991 Directive on urban wastewater treatment (UWWT). Why might this demonstrate the value of a "post-decisional" perspective? First, the environment is a relatively technical policy area where one

would expect neofunctionalism to perform relatively well. In many ways, it offers an example *par excellence* of integration proceeding 'informally' i.e. ahead of the formal process of Treaty negotiation and adoption. To find strong or dominant intergovernmental elements in such a domain would deal neofunctionalism a serious blow on its home domain. Second, the broad 'style' of environmental policy is regulatory rather than distributive (Lowi, 1964). Intergovernmentalists rightly argue that studies which claim to find evidence of pluralism are drawn from areas of policy which are more distributive in 'style', and hence more likely to involve resource diffusion and greater sub-national autonomy (Moravcsik, 1994, 53). Turning specifically to coastal bathing water, the bathing water Directive is widely regarded, not the least by the Commission, as having been very poorly implemented by almost all states. During the troubled ratification of the Maastricht Treaty, it was included on a 'hit list' of troublesome Directives for repeal or repatriation to the national level (The Observer, 12-12-94). European political leaders, including Chancellor Kohl and Jacques Delors, admitted that it was inherently a domestic matter and should never have been the subject of European legislation.⁴ This inevitably raises the question of why it was agreed to in the first place. Finally, the bathing water Directive was one of the first items of environmental legislation to be adopted by the EC. The received wisdom among policy analysts is that policies have to be examined over relatively long periods (i.e. decades rather than years) fully to reveal their intended and unintended consequences (Sabatier, 1986a, 318). Although the UWWT Directive is not scheduled to be fully implemented until the beginning of the next century it is already clear that it will have long lasting, and extremely costly implications for coastal water quality in all Member States.

The rest of the paper is organised as follows. Part Three discusses why the question of implementation has commonly been neglected by students of European integration and how focusing on long-term political outcomes provides a firmer basis upon which to adjudicate between claims made about the rate and depth of integration. Part Four introduces the case study and discusses the experience of implementation in Britain since 1975. It is difficult to assess the influence of EC interventions without a notional 'baseline', so a few words are said about British policy *prior* to the adoption of the Directive.⁵ Finally, Part Five relates the two main paradigms of integration to the findings of the study, draws together a number of conclusions and makes suggestions for further research in the field. Throughout, the emphasis is

upon developments in England and Wales rather than the rest of the UK where events have run differently to a large extent.

3. European integration and “post-decisional” politics

In different ways, a “post-decisional” perspective raises interesting questions for the two main paradigms of integration. Neo-functionalism predicts a self-perpetuating process of integration driven by spillovers. As problems are solved and common policies adopted, elites shift their loyalties from the nation state to the supranational level, followed by interest groups who perceive their interests to be better served there. The outcome is a cumulative and expansive process, with a more or less automatic transfer of sovereignty from Member States to the Community institutions, who are assumed to have some autonomy from states. States, in this view, are simply dragged along by a self-reinforcing dynamic, trapped in a “web of unintended consequences spun by their own previous commitments” (Moravcsik, 1993, 475). Gradually states find themselves bound to a greater degree of integration than they had originally foreseen, or they simply fail to notice the gradual draining away of power to Brussels.

Neo-functionalists on the other hand suggest that integration proceeds significantly in the periods *between* the major inter-governmental conferences (IGCs), which chart the subsequent process of policy development and institutional creation “only in rough outline” (Marks, 1993, 403). The IGCs may be characterised by ‘high’ politics, but it is during the subsequent process of “filling in and interpreting” the Treaty amendments (Pollack, 1996, 436), that gaps begin to appear in Member State control:

“a convincing analysis of institution building in the EC should go beyond the areas that are transparently dominated by Member States: financial decisions, major pieces of legislation, and the treaties. Beyond and beneath the highly visible politics of member states bargaining lies a dimly lit process of institutional formation, and here the Commission has played a vital role... [T]here is the less transparent but very

consequential, process of post-Treaty interpretation and institution building” (Marks, 1993, 392, 395).

Both Marks (1992; 1993; 1996) and Leibfried and Pierson (1995), find evidence of significant integration proceeding at the meso-level in fields like regional policy and social affairs, which goes well beyond that originally foreseen by Member States. Traditionally, ‘spillover’ is measured in terms of the extension of Community competence into new areas via the adoption of policies. Marks, however, show that significant unintended consequences also occur during the subsequent process of implementation, the implication being that states “do not know exactly what they are agreeing to when they sign on” (Marks, 1993, 403). For Marks (1996, 418), the Community needs to be seen rather differently:

“the multi-level governance approach disaggregates the state, and examines the decision-making of particular state actors, including... member state executives; instead of assuming that states operate to preserve sovereignty, it assumes that state actors have multiple, potentially incompatible goals; instead of focusing on ‘big decisions’... it focuses on politics beyond and below the treaties; and... instead of concluding that member states consistently control policy outcomes, it finds that the influence of actors at different levels of government varies widely across, and even within, policy areas”

However, neofunctionalism did not as originally conceived predict the emergence of a systemic implementation ‘gap’ in the EC. Haas (1964, 231) himself suggested that ‘upgrading the common interest’ requires states to stress what they have in common and to postpone the settlement of disagreements, in the hope that agreement in the short term will increase the possibility of agreement in the longer term. But neofunctionalism greatly underestimates the powerful grip states have on the implementation of policies, and the potential for disputes to emerge at the back-end of the policy cycle. From a state-centric perspective, the implementation gap in the EC is the direct corollary of state attempts to hold in check the “rise of the regulatory state” in Europe (Majone, 1994, 86). Later formulations of neofunctionalism tried to adopt a less teleological view by introducing concepts like ‘spillback’ (a “situation in which there is a

withdrawal from a set of specific obligations” (Lindberg and Scheingold, 1970, 137) or “a return to a purely national framework of action” (Haas, 1968, xxix)) as one of a number of possible outcomes⁶ of integration. But it was always a fudge: while spillback “does entail risks for the system as a whole, it is likely to be limited to the specific rules in question” (Lindberg and Scheingold, 1970, 137).

Inter-governmentalists, on the other hand, see the sovereignty of Member States as essentially undiminished. In caricature, states are seen to be in control of the Community and external from it. The European Council sets the basic strategy, the system of comitology filters out unfavourable policies, while the Council of Ministers (CoM) has the final say over what is adopted. Because states are careful to keep the ‘gate’ between domestic and international politics, domestic actors can only exert influence through the domestic political structures of Member States. States delegate a narrow range of technical tasks to supranational bodies, whose discretion is carefully circumscribed. Overall, integration proceeds only as fast and as far as states decree. When state preferences change (normally they are treated as essentially fixed), the structures and institutions are altered accordingly, having little or no autonomy of their own.

Generally, intergovernmentalists display little interest in day to day policy development including the implementation of secondary legislation: individual policy sectors are assumed to develop within, but rarely significantly beyond, the terms of the grand ‘history making’ bargains. Moravcsik (1993, 473), for example, confidently asserts that:

“from the signing of the Treaty of Rome to the making of [the] Maastricht [Treaty]... the EC has developed through a series of celebrated intergovernmental bargains, each of which set the agenda for an intervening period of consolidation. The most fundamental task facing a theoretical account of European integration is to explain these bargains” (emphasis added).

In the language of policy analysis, policy outcomes are said to conform to the expected preferences of Member States. “Unintended consequences and miscalculations have played a role at the margins” he asserts (Moravcsik, 1995, 626) (emphasis added). He (Moravcsik, 1994,

52) dismisses in a most uncompromising manner Marks's suggestion that state power is diffused among actors at various levels and his point that integration has escaped the control of state executives.⁷ He also rejects any significant autonomy on the Commission's part (c.f. Wincott, 1995). Rather, supranational policies are said to "reinforce" (emphasis in original) the domestic power of national executives (Moravcsik, 1994, 52); the *sui generis* character of the EC "is acceptable to national governments only insofar as it strengthens, rather than weakens, their control over domestic affairs, permitting them to attain goals otherwise unachievable" (Moravcsik, 1993, 507).

But if the EC is dominated by states, why do implementation problems arise at all? This is the famous "paradox of non-compliance" first identified by Krislov *et al* (1986, 61, 77), which raises intriguing questions about the internal capacity of states (does implementation fail because of domestic political opposition?),⁸ the relationship between separate parts of the state (do green departments agree to problematic legislation in order to gain leverage over other departments?) and the changing character of the original obligation entered into (do rulings by the European Court of Justice (ECJ) tighten the legal context of implementation?). Poor implementation on occasions creates serious legitimation problems at the national level for states, undermines trust in the Community and works against the creation of the Single Market to which all states are committed. Surely, states would use various devices to "erode" policies before they are adopted (Hogwood, 1987, 180), rather than suffer the political uncertainty of implementing unfavourable legislation? Of course the idea that states might defect involuntarily (Putnam, 1988, 438) because of failures of internal capacity cuts right across the basic assumptions of classical realism.

Moravcsik's model of liberal intergovernmentalism (LI) hints at a number of possible answers although it does not address the question of compliance with secondary legislation directly. He admits that enforcement is an area where the delegation of authority to supranational bodies like the ECJ has proceeded further than that originally foreseen by governments (Moravcsik, 1993, 512).⁹ In the main, however, he asserts that the involvement of the EC adds credibility to state initiatives, insulates state executives from domestic buffering and helps them overcome domestic opposition.¹⁰ Instances where domestic groups widen the application of Directives during the

“post-decisional” phase are dismissed as “efforts to ‘claw back’ influence previously lost to executives in [the] initial stages of policy formulation” (Moravcsik, 1994, 53).

The key question, then, is whether interactions between sub-national and supranational actors create genuine gaps in state control during the intervals between the grand bargains, or whether states remain fundamentally in control of the integration process. Writers like Moravcsik have great faith in the power of states and the importance of major decisions, but seem unwilling to apply intergovernmental theories to investigate the areas of ‘low’ politics in which their critics claim to observe more pluralistic policy processes.¹¹ Studies which demonstrate power being diffused and supranational bodies acting autonomously are dismissed as “anecdotal”: “while advocates of the diffusion hypothesis have discovered isolated examples of power shifting toward domestic groups, there is good reason to believe that the net effect favors executives” (Moravcsik, 1994, 53). He then erects an extremely high burden of proof: “[o]nly where the actions of supranational leaders systematically bias outcomes away from the long-term self-interest of Member States can we speak of a serious challenge to an intergovernmentalist view” (Moravcsik, 1993, 514) (emphasis in original). Leaving aside for the moment the question of what constitutes ‘systematic’ and ‘long-term’ bias, it seems self-evident that whether policy outcomes actually diverge substantially from those originally foreseen by Member States is properly a matter for detailed empirical investigation after a sufficient period for implementation has elapsed.

Golub (1996a, 29) argues persuasively that intergovernmental accounts would have greater credibility if they showed that the “stupendous” growth in secondary legislation documented by Majone (1996, 56) and others in policy areas such as environmental protection has not significantly undermined domestic sovereignty. *In other words, it is in the supposedly mundane areas that we should look for evidence of ‘systematic’ and ‘long term’ bias of outcomes against states.* To this end, he suggests that a “true test” of whether power is diffused or remains with states is: (1) whether or not legislation is amended and adopted despite Member State opposition; and (2) whether legislation supported by the CoM is blocked (or presumably greatly amended?) by supranational actors like the Commission or the European Parliament. He applies this two-pronged test to a case study of the packaging waste Directive and finds evidence of state control when one would have expected some policy creep. However, he fails to

acknowledge that this is only an interim assessment. Policy analysis tells us that policies have the capacity to alter greatly as they are implemented, as they interact with other policies, as central government bargains with local implementing officials (Barrett and Fudge, 1981) and as actors at all levels learn about new problems and changing circumstances (Majone and Wildavsky, 1979; Sabatier, 1986b; Sabatier and Jenkins-Smith, 1993). States might, of course, fail to implement the Directive fully, which would lend intergovernmentalist accounts even more credibility. Conversely, outcomes may diverge substantially from that originally foreseen by state executives because of pressure from EC institutions; because new developments (the election of a new government) alter state preferences; or because of 'spillovers' into realms not covered by the original policy.

Obviously, one cannot subject the packaging waste Directive to such an analysis because it was only adopted in 1994 and sets compliance deadlines stretching into the next century. Instead, we consider the area of coastal water quality. No claim is made that this can resolve fully the debate between competing visions of integration, or even that the findings are generalisable to other environmental policies let alone other policy areas. These are all matters for detailed empirical investigation. The more modest aim of this article is simply to demonstrate the utility of a "post-decisional" perspective. Considering every policy area will be a mammoth undertaking, although Golub (1996b) has made a start.

4. British and European coastal bathing water policy

The aim of the Bathing Water Directive (hereafter 'the Directive') (EEC 76/160) (OJ L31 5-2-76, 1) is 'to protect the environment and public health' by raising or maintaining the quality of bathing water over time. It prescribes a list of different parameters, with the values that must be adhered to. The most important are those for total and faecal coliforms, a type of bacteria found in sewage but also associated with non-human sources such as decaying vegetation. The Directive requires Member States to take 'all necessary measures' to ensure that bathing waters in their jurisdiction comply with the standards by December 1985.

At the time of its adoption in 1975, Britain had neither a bathing water 'policy' nor a water 'industry'. With a long coastline and relatively strong tides, successive governments have relied upon 'marine treatment' to deal with the sewage generated by coastal communities - essentially discharging it into the sea along pipes rather than treating it in sewage works. In practice, there was never sufficient money or political commitment to implement properly a policy of 'dilution and dispersion'. Many of the outfalls dated back to the Victorian period, were poorly sited and discharged material directly onto beaches (Hassan, 1995). The Government, however, did not consider this to be a serious problem. British scientists had concluded in the late 1950s that with the possible exception of a few "aesthetically revolting" beaches the health risk was trivial, even in areas that were aesthetically unsatisfactory (MRC 1959). British policy therefore, was to ensure only that the most vile beaches were made aesthetically acceptable. There were no legally prescribed standards: decisions about what was 'acceptable' were made subjectively by local officials on the basis of visual inspections. Like other many other areas of British environmental policy, national 'policy' on beaches and bathing areas was relaxed, flexible, pragmatic and largely decentralised. Without fixed standards and an independent regulatory agency, the only environmental pressure group campaigning for cleaner beaches, the Coastal Anti Pollution League (CAPL), found it difficult to make progress. Its Chairman, Tony Wakefield, spoke at local planning inquiries and on occasions influenced the design and siting of treatment facilities, but failed to break the political and economic binds holding back investment.

The Commission, however, evidently believed that sewage on pollution did constitute a serious risk to health and public amenity, because in March 1975 it published proposals for a Directive laying down numerical environmental quality standards¹² for bathing areas (OJ C 67, 27-3-75, 1). Set against British policy, it was much more prescriptive, containing specific parameters, precise standards and deadlines for compliance. An adviser to the Department of the Environment (DoE) in the 1970s notes that the European Council had voiced support for bathing water quality objectives in a 1973 Declaration on the First Environmental Action Programme (OJ C112, 20-12-73, 1), long before there had been discussion among national experts (Moore, 1977, 269). When the Commission finally convened a study group of national representatives in March 1974, apparently it failed to consider important matters like health or alternative parameters (*ibid*, 269). In an Explanatory Memorandum the Commission noted that "no provisions of the same scope and the same degree of technicality... already exist in...

national legislation” (COM (74) 2255 final, 3-2-75, 1). The Memorandum said that the tendency for pollution to move across national boundaries¹³ and for tourists to suffer the effects of such pollution in the areas they visit, justified action at the European level (*ibid*, 2). In contrast to British policy, the Commission’s underlying aim therefore was to move towards the *harmonisation* of bathing water quality across the Community.

4.1. The adoption of the bathing water Directive

Britain was highly critical of the proposal - the debate in the European Parliament consisted entirely of consideration of amendments proposed by British MEPs (OJ C128, 9-6-75, 13). At the national level, the DoE informed a House of Commons Scrutiny Committee that there were obvious difficulties in applying ambiguous terms like ‘bathing water’ and ‘bathing season’ and put the likely cost of compliance at around £100 million (Levitt, 1980, 98).¹⁴ It concluded that while achieving adequate public health standards “would not present any particular difficulties in the UK”, there might be “difficulties” in maintaining the higher amenity standards implied by the Directive (*ibid*, 115). In a follow up report, however, MPs decided not to pursue the matter any further (*ibid*, 99). Their Lordships, however, were damning in their criticism. The proposed standards, the influential House of Lords Select Committee on the European Communities (HOLSCEC) (HOLSCEC, 1975, 5) concluded, “are so ill-defined as to be virtually unenforceable.” Moreover:

“restrictions appropriate to the organised beaches of Southern Europe and the Mediterranean coastline and other semi-enclosed and almost tideless seas may be quite inapplicable to the tidal regime around our coast... uniform... standards... play no part in our pragmatic administration” (HOLSCEC, 1975, 4).

The Committee rather presciently forecasted that the likely costs of implementing the proposal “could lead to a serious questioning of Community priorities” (*ibid*, 5). Lord Ashby, Chairman of the standing Royal Commission on Environmental Pollution (RCEP), said the Directive was “in many ways incomplete, ambiguous, not to say half-baked” (HL Debs, Vol. 364, 13-10-75, Col. 729). Distinguished British lawyers like Lord Diplock even asked whether the proposal

was actually *vires* on a strict reading of the Treaty of Rome (HL Debs, Vol. 364, 13-10-75, Cols. 743-747).¹⁵

Strangely, Britain did not protest as much as perhaps it might. Replying for the Government, Lady Birk said “that nothing would be gained by questioning the legality of the proposal and, indeed, *in certain respects we are inclined to welcome it in its broad outline*” (HL Debs, Vol. 364, 13-10-75, Col. 759) (emphasis added). Thereafter, British negotiators managed to secure a number of changes to the text of the proposal. These included reduced levels of sampling and testing (HL Debs, Vol. 364, 13-10-75, Col. 757), a slightly longer period of implementation (10 rather than 8 years), the inclusion of some visual inspection of beaches (Moore, 1977, 272) and the creation of a Management Committee of the CoM to keep parameter values and methods of analysis under review. None of the recommendations made by the European Parliament (OJ C128, 9-6-75, 13-14), which included banning bathing at non-compliant waters and extending the scope of the provisions to swimming pools, appeared in the final text, which was adopted by Ministers in December 1975 by unanimity. So, despite the reservations of the scientific establishment, Parliament, water engineers and eminent lawyers, the then Labour Government decided not to exercise the veto which every state then held over EC environmental matters - a slightly puzzling turn of events given the painful problems which were to follow. In 1980, the DoE’s Superintendent Chemist, a Dr. Garnett, tendered the following explanation:

“The answer to why there was a bathing water Directive was that [British negotiators] had not really thought it was worth arguing against. At the time major issues were being drafted in Brussels, and they had not wanted to appear too obstructive. As members of the Community they had to abide by the rules, and it seemed reasonable to accept the... directive in the overall context at the time” (in: Barrow 1981, 229).

But why did Britain not erode the policy more fully? There are three possible explanations. First, like most politicians, Ministers at the time had short time horizons: they knew the costs of compliance could comfortably be left for some future government to deal with. Second, British officials tended not to treat proposals from the Commission that seriously; it did not, after all, have anything like the political clout or legal competence in environmental matters it enjoys

today.¹⁶ Directives were seen as “flexible instruments, the implementation of which could take considerations of finance, time and vested interests into account” (Haigh and Lanigan 1995, 23), not legally binding obligations. The rapidity with which European bathing water standards were adopted and studies conducted in other Member States point to the fact that Britain was by no means alone in taking a somewhat relaxed view of EC environmental initiatives at this time (Bungartens, 1978). Finally, it is also said that British negotiators painted themselves into a corner by arguing against uniform emission standards during the negotiation of the (1975) Directive on dangerous substances. To have then argued against environmental quality standards for bathing water would have contradicted this earlier position (Bungartens, 1978; Haigh, 1995).

Reluctant and unconvinced of the merits of the endeavour, it was hardly surprising that Britain subsequently identified only 27 ‘bathing waters’ for the purposes of the Directive in 1979. Popular resorts such as Brighton, Eastbourne and Blackpool were excluded,¹⁷ and none were identified outside England. The Government claimed that on this most crucial of matters the Directive was imprecise (Geddes, 1994, 128), but the real reason was to keep public spending by the fledgling Regional Water Authorities (RWAs) to an absolute minimum. An administrative circular from the DoE in 1979 had made it quite clear that the criteria should be applied narrowly “to keep to a minimum any additional expenditure incurred” (DoE, 1979, para. 12). Yet the difference between Britain’s performance and that of other states, who between them managed to identify 8,000 waters, seemed designed to invite action by the Commission. Monitoring of the 27 waters in 1979 revealed that only eight breached EC standards. Compliance averaged around 66% in the period up to 1986 (Haigh, 1992, 4.5-7).

4.2. Growing demands for investment in coastal areas

During the 1980s a combination of factors gradually pushed the Government into adopting a less restrictive interpretation of the Directive. The first was the growing legal competence and political power of the EC in environmental affairs. The Single European Act in particular gave EC environmental policy formal, legal backing and strengthened the Commission’s arm considerably. Earlier, a number of highly embarrassing episodes of non-compliance had

prompted DG XI to take a much more interventionist line on enforcement, inquiring into the practical aspects of implementation at the national level and confronting errant states (Macrory, 1992; Williams, 1994). Thus in April 1986, a few months after the passing of the formal deadline for compliance, December 1985, the Commission commenced infringement proceedings against the UK, focusing on the waters at Blackpool and Southport (Geddes, 1994, 131). Pressure for change also began to build at home. Both the RCEP (1984, 53) and the House of Commons Select Committee on Welsh Affairs (HOCSCWA) called unsuccessfully for the application of the Directive to be widened substantially. The scale and sophistication of domestic pressure group activity also increased, mirroring and in turn catalysing a broader upsurge in public concern for the environment. In 1986, Greenpeace used its ship to sample coastal waters and assess them against EC standards (The Times, 25-6-86). Meanwhile, Friends of the Earth (FoE) started to exploit the Commission's administrative complaints procedure, bombarding DG XI with information about the poor quality of British water (Macrory, 1992, 363).

Most importantly, from the mid-1980s the Government's obligation to implement EC water Directives came increasingly into conflict with its desire to privatise the RWAs *in toto*. Water was probably the most controversial, complicated and unpopular of the major privatisation exercises of the 1980s. At one stage - the story is recounted by Richardson *et al* (1992, 164-166) - the entire sale had to be postponed for nearly a year in the face of fierce public opposition. Domestic environmental groups played an instrumental role in this by exploiting EC law to their advantage. Specifically, they drew the Commission's attention to possible incompatibilities between the Government's plans for regulating the industry and the requirements of EC environmental law. A subsequent warning from the Commission (OJ L129, 18-5-86, 23) convinced Ministers of the need to return the whole plan to the drawing board. When the sale was restarted in 1987, the Government announced the creation of an independent National Rivers Authority (NRA) to work alongside an economic regulator, the Office of Water Services (OFWAT).¹⁸

Another major headache for Ministers was the constant threat of an appearance in the ECJ or a national court which would have seriously upset that most precious of commodities, investor confidence. A series of Cabinet papers leaked to FoE in 1990 (The Times, 1-6-90) demonstrate

the seriousness with which civil servants and Ministers treated this problem. Realising that the legal context of implementation had tightened, the DoE advised Cabinet in May 1986 that if infringement proceedings “were to be pursued to the [ECJ] we would very likely lose; there is no real scope for a purely technical defence.” The papers show clearly that the British Government knew full well that 27 beaches was not in the spirit of the law. But what particularly troubled civil servants was the unpredictable behaviour of supranational bodies:

“An agreement with [the Commission] must now be preferable to an action with all the attendant publicity and uncertain outcome. An action before the [ECJ] during the privatisation discussions or the flotation would have wide ranging national implications going well beyond Blackpool.”

The Commission, however, continued to push for compliance to the letter. After intensive negotiations with Commission officials, Ministers designated a further 362 extra waters in 1987 including those at Blackpool and Southport, which took the total up to 389. But even this failed to satisfy the Commission which, in February 1988, issued two further Reasoned Opinions relating to non-compliance at Blackpool and Southport (Geddes, 1994, 127). During subsequent negotiations, DG XI made it clear to the DoE that proceedings would only be suspended when Britain put in place an improvement programme to bring all the waters into compliance within a decade of the original deadline (i.e. by 1995).

The other key problem was not so much legal as financial: City investors had to know the liabilities of the water industry - an industry, incidentally, that the private sector knew desperately little about - in full before they could give the sale the support needed to make it a success. The obligations arising from EC legislation were vitally important in this respect but were extremely difficult to predict. Even so, compliance programmes had to be properly costed and catered for in the prospectuses. The main dilemma then facing Ministers was whether to ask the companies themselves to carry most of the cost burden (thereby reducing their attractiveness to buyers), or to take the more politically unpopular route of placing it on the shoulders of future customers by setting higher prices. As the privatisation process rolled forward, Ministers gradually began to understand how to square the circle of conflicting

demands placed upon them. A properly costed clean up programme would demonstrate a much greener face to the electorate, convince the City of the viability and legality of the sale and, by shifting the financial burden of complying with EC water Directives from the public to the private sector, significantly reduce a future and major claim on the public purse. It was against this background that the DoE announced, in October 1989, a £1.1 billion bathing water compliance programme to achieve full compliance by 1999 (DoE, 1989). When the Water and Sewerage (WSC) companies were floated on the stock exchange two months later in December 1989, the charges they could levy upon customers were pegged at inflation plus 5% for ten years to pay for this and many other investments totalling some £28 billion (1988-9 prices) (Byatt, 1996). Their existing debts were also paid off by the Exchequer (HOCCPA, 1992).¹⁹

Even this failed to sway the Commission, however. In one last desperate attempt to avoid an appearance before the ECJ, Britain promised to accelerate the improvement programme, the main effect being to more than double the rate of increase in water prices in the South West of England (Byatt, 1996, 667). But the Commission refused to back down and in July 1993, Britain finally appeared before the ECJ, long after it had agreed to a more maximal interpretation of the law. As expected, it pronounced that Britain had failed to fulfil its obligations under the Treaty (OJ C222, 18-8-93) (Geddes, 1994).

4.3. The political repercussions of clean up programme

The investment programme coupled to a run of good summers²⁰ nudged the rate of compliance up to 90% in the 1996 season (DoE, 1996) - up just 1% on 1995 and 5% below the 95% compliance level promised in 1990. Technically speaking, Britain remains in breach of the Directive a full decade after the passing of the original deadline for full compliance, although further infringement proceedings now seem unlikely given that Britain is entering much more fully into the spirit of the law. And if Britain's performance is patchy it is in good company: no Member State has complied fully with the Directive; only now is the Commission insisting that Italy, Spain, Germany and Belgium submit costed clean up plans similar to Britain's (Europe Environment, 1996). In spite of these changes, the Government has been unable to draw a line under the issue of dirty beaches and bathing water. The arrival of new actors such as surfing

groups coupled to greater environmental awareness generally have kept the issue of water quality firmly in the public eye. Groups like the Marine Conservation Society use the EC compliance reports compiled by the DoE as a basis for their own surveys and award schemes, often in alliance with local authorities and business interests. The publication of each survey is widely reported in the press and a lively competition has developed between resorts to fly the various 'flags' of excellence.

The Community itself has played a large part in maintaining the political profile of the sector. As well as chasing recalcitrant states, it has introduced even more ambitious legislation to improve coastal and inland water quality (COM (89) 518, 9-11-89). The Urban Wastewater Treatment (UWWT) Directive ((91/271/EEC) (OJ L135, 30-5-91), which aims to bring European sewerage and sewage treatment infrastructures in coastal and non-coastal areas up to and beyond those currently in place in the wealthiest Member States by 2005, was adopted in 1991. As with the bathing water Directive, the original impetus came not from the Commission, which issued a proposal in early 1990 (OJ C1, 4-1-90, 20), but the states in the Environment Council. In June 1988, Ministers had attended a workshop in Frankfurt to discuss the local, national and international impacts of untreated waste water in the Community, and subsequently invited the Commission to draft proposals for improving standards of treatment (DoE *et al*, 1990, 1).

Initially, the DoE informed Parliament that the compliance costs would be in the order of £2 billion,²¹ but warned of various "additional costs" arising from the proposal such as treating emissions to more sensitive inland waters (*ibid*, 4). The then Head of the Department's Water Directorate, Dinah Nicolls, even re-assured their Lordships that it was "one of the few Directives in the environment area that I have seen that has got the balance [between Member State and Community control] and structure roughly right" adding that Britain was "working with the grain of the Directive already" (HOLSCEC, 1991, 16, 27). Ministers, a former senior DoE official suggests, had good reason to be "satisfied" with the final text when it was adopted in March 1991 (Sharp, 1997) because it allows Britain to apply lower levels of treatment to discharges to more 'robust' (i.e. coastal) waters. Three years later in 1993, however, OFWAT created a political storm when it announced that the total cost of implementing the Directive would be nearer to £10 billion (OFWAT, 1993). Although this was subsequently revised

downwards to £6 billion in the period to 2005. it is still three times the DoE's original estimate. Currently, sewage treatment facilities serving two-thirds of the population in England and Wales are being improved to fulfil the terms of the bathing and UWWT Directives (Byatt, 1996, 669) in the period up to 2004 at a combined cost of £7.3 billion. Large areas of the coastline are being dug up as water companies build large (regional level) schemes to collect and treat sewage. A further £3.9 billion will also be spent improving drinking water to attain EC standards.

The DoE is still fully to explain the rapid escalation in compliance costs,²² which have had a sudden and significant upward effect on water bills. In 1994, the Government's own National Consumer Council (1994) estimated that bills had risen by 67% since privatisation, while the value of water company shares and profits had soared by 99% and 20% respectively (The Financial Times 11-7-94). Rising bills alone would have been deeply controversial. But what has pushed the question of water quality firmly it into the realm of national and local party politics is the widespread public feeling that the investment programme, which is mainly driven by EC commitments, has benefited water companies disproportionately while "households still face a highly regressive, rising tax" (The Financial Times, 29-7-94). The two main regulatory bodies, OFWAT and the NRA, were in open dispute throughout the early 1990s over the speed and scope of the clean up operation demanded by Brussels, and the matter has made headline news on a number of occasions. "Water" in the 1990s, commented the Financial Times (The Financial Times, 29-7-94), "is political poison."

When quizzed by members of the House of Commons Environment Select Committee (HOCEC) about whether his department had conducted a thorough cost-benefit analysis before agreeing to the UWWT Directive, a senior DoE official explained that "you only become aware of the accurate estimates as you actually do the work to analyse the state of the water and how it complies" with EC law (HOCEC, 1994, p35). Robin Sharp (1997), an Assistant-Secretary in the DoE at the time, infers that negotiators were perhaps a little complacent:

"[The] Department appears to have relied on the hard figure of £2bn for coastal improvements and accepted the view that inland secondary treatment would pass

muster or be covered in the... agreed investment programme. [T]he feeling that privatisation could cope with those costs that did not spring from explicit policy changes, plus the adoption of UK amendments designed to secure other cost reductions, may have led to a too superficial assessment of the technical detail of the limit values”

The normally reliable ENDS magazine commented at the time of the Directive's adoption in 1991 that the text had been negotiated “with remarkable rapidity considering its financial implications” (ENDS, 1991, 34).²³ Sadly, information which might explain whether other departments were fully apprised of the situation is not currently in the public domain. It may, of course, simply be that the British water industry is experiencing the costs of compliance a little earlier than other Member States whose water services are state owned, fragmented and not under pressure to have as reliable view of their investments for the purposes of setting future prices limits as British companies. Be that as it may, Ministers are now caught between the Scylla of complying with external obligations arising from EC environmental laws and the Charybdis of keeping water bills down to a level that does not invite adverse political criticism at home. A solution to this dilemma is urgently required in the South West where a combination of extremely marginal constituencies, a major expenditure programme and a low, and generally poor customer base (it contains one third of the ‘bathing waters’ but only 3% of the UK population). Bills there are some of the highest in the country. The Prime Minister is know to be under intense pressure from local Conservative MP's to intervene, perhaps with central Government assistance.

The 1990s have seen various ploys by the British Government to dampen the escalation in water bills. OFWAT's (1993, 13) suggestion is for the Government to re-negotiate EC waste water standards. But when the British Chancellor of the Exchequer, Kenneth Clarke, tried to have the implementation of the UWWT Directive delayed at an ECOFIN meeting in late 1993 on the grounds that negotiators had greatly underestimated the costs of compliance, he was rebuffed by the Commission (The Independent, 21-11-93; The Guardian, 13-12-93). His broad game plan was to have all future environmental policy making overseen by Finance Ministers:

“Decisions are often taken by specialist Councils that can have unexpected consequences for Member States. At a time when we are all trying to work together to create the right climate for economic growth and employment, it is right that Finance Ministers should be able to look closer at the implications of Directives” (ENDS, 1993, 16).

When the Government attempted to narrow the impact of EC legislation in more subtle ways, these only generated fresh political problems.²⁴ Interestingly, several WSCs have recently decided to dip into their own pockets to pay for costly disinfection technology to dampen public criticism that non-compliance at designated waters is caused by sewage discharges rather than more diffuse, ‘natural’ sources (ENDS, 1997). In effect, they have decided to rely upon their own, considerably stricter, interpretation of EC obligations, rather than that of the Government, to whom Directives are officially addressed.²⁵

Continuing attempts have also been made at the European level to lessen the financial burden of EC water Directives. In 1992, British Ministers exploited the post-Maastricht backlash against deeper integration to push for a thorough re-examination of environmental laws and structures in accordance with the principle of subsidiarity. When Delors agreed to draw up a ‘hit list’ of 24 environmental Directives for review (The Observer, 12-12-94), rumours spread that many would be repealed or repatriated to the national level. The bathing water Directive was chosen as the first test of the Commission’s readiness to adapt to the new political *zeitgeist*. But when proposals for a revised Directive were published in early 1994 (OJ C112, 22-4-94), Ministers discovered that important parameter standards had been significantly tightened not weakened. This, of course, generated fresh publicity in Britain and prompted a further inquiry by the HOLSCEC (1994; 1995), which concluded that the costs of implementation - an extra £1.6 to £4.2 billion - were “unjustified” on current scientific evidence (HOLSCEC, 1995, 9). The fact that they will have to be adopted on a qualified majority vote and with the co-operation of the European Parliament removes the veto Britain held, but did not deploy, in the 1970s. In an attempt to dampen opposition and appease critics, the Commission recently called a meeting of the existing Management Committee - the first in almost two decades.

5. Relating the theories to the case study

What, then, does the case study reveal about the broader process of integration? Overall, it presents a fascinating and complex picture of multi-level interaction which cannot easily be distilled to either intergovernmentalism or creeping neofunctionalism. Over the last twenty years, many actors including pressure groups and national regulatory officials have shifted their activities and expectations (though not always their loyalties) upwards to Brussels ('political spillover'), while DG XI has employed various devices (e.g. the complaints procedure and the annual compliance reports) to "outflank" (Clegg, 1989, 225) central government and build informal alliances with sub-national actors ('cultivated spillover'). As the saga of implementation unfolded, national and local environmental groups recognised the Commission as an important ally in their fight for higher levels of environmental quality. New actors were, in other words, politicised - i.e. brought within the ambit of the EC policy process - in exactly the manner predicted by neofunctionalists. During the 1970s and 80s these alliances succeeded in pushing British into accepting a more maximal interpretation of the law. Interactions in the 1970s could be characterised as a "two-level game" (Putnam, 1988, 434), with the DoE not only representing, but in many respects defining, the interests of the British water policy network in Brussels. But by the 1990s a much more variegated system of multi-level governance had emerged, with actors from different levels contesting decisions made at a variety of levels. Significantly, while most of the NRA's contacts with the EC are routed through the DoE, it has staff of its own positioned in and around Brussels tracking events, networking with other national officials and representing the organisation's interests. Ironically, privatisation - a domestic political initiative - acted as the greatest spur to domestic interest representation at the European level.

Other supranational actors had an important although less direct impact on events. While the European Parliament had little influence during the process of adoption, MEPs were instrumental in drawing attention to failures of compliance and pressuring the Commission to instigate infringement proceedings. Rulings by the ECJ throughout the period of implementation made it difficult for states to dismiss Directives as no more than loose statements of intent. One of Britain's foremost environmental lawyers, Richard Macrory (1992, 351), wonders whether Member States like Britain would have agreed quite so readily to earlier

environmental Directives on matters such as bathing water “had the development in the European Courts’ jurisprudence occurred at an earlier date.” From a neofunctionalist legal perspective, this gradual tightening of the legal context of implementation over time is constitutive of the ‘constitutionalisation’ of the Treaties (Burley and Mattli, 1993).

Community institutions were not, therefore, simply instruments of state power. They had their own separate conception of integration, enjoyed autonomy from the British state and, with the support of domestic groups, had an independent causal influence on events. Their endeavours led to a significant tightening of the legal and political context of implementation, which narrowed significantly the autonomy of state executives. Overall, the Commission has succeeded in significantly ‘upgrading the common interest’, even though the system of unanimous voting used in the 1970s implied that lowest common denominator outcomes would prevail and implementation remains unsatisfactory in many Member States. Britain in particular designated many more waters and invested considerably more money in new treatment capacity than was ever envisaged by negotiators in the mid to late 1970s. Indeed, there is even evidence of functional spillover. In drawing attention to the quality of coastal water without addressing the underlying *sources* of pollution, namely sub-standard sewage works, the bathing water Directive paved the way for the UWWT Directive, which is proving to be a much more ambitious and costly undertaking.

Our study underscores the importance of taking a diachronic view of events: a situation which had initially seemed unproblematic - mundane even - for the British Government unfolded along unpredictable and unforeseen pathways. The key point being made is that a ‘snapshot’ view of events surrounding the adoption of policies in the CoM would not uncover the gaps which appeared in the British Government’s control of events as implementation proceeded. It is interesting that both neofunctionalism and intergovernmentalism offer credible accounts of events up to the point of adoption (i.e. 1975). Neo-functionalists would no doubt regard the Directive as evidence of ‘informal’ integration proceeding in areas not covered by the original Treaty, and of functional problem solving by trans-national groupings of experts. In principle, bathing water has little to do with the establishment of a Common Market.²⁶ But the Commission pushed the matter and the Member States acquiesced. The DoE’s evidence to the HOLSCEC in 1975 demonstrates unequivocally that Ministers had serious reservations but did

not see the need to act fully upon them. Negotiators had relatively short time horizons; the extension of the period of compliance from eight to ten years probably only encouraged them to take a relaxed view of implementation. Ten years on, however, a different Government found itself lumbered with obligations that conflicted with domestic political priorities and could not easily be disavowed. Calculations of what was desirable had changed significantly but the obligation could not be undone and in many ways had tightened.²⁷ Intergovernmentalists on the other hand, would focus on the availability of unanimous voting in the CoM in the 1970s. Britain supported the Directive *because* the overall benefits of participation - of not being too 'obstructive' - were seen to outweigh the costs; if it was not happy, surely it would have exercised its veto?

Viewed over a longer time span, however, a rather more puzzling picture emerges. Implementation was anything but the smooth process posited by functionalists and (to a lesser extent) neofunctionalists. It was only really during the "post-decisional" phase that serious differences in interpretation - which had hitherto not been brought fully to the fore - began to manifest themselves. Although obviously an example of 'spillback', it is difficult to explain the twenty year saga of procrastination and prevarication with the tools of neofunctionalism. The image of integration snowballing or 'spilling' forward under its own self-perpetuating dynamic does not sit easily with the intense and politically fraught process of bargaining between the Commission and British officials. Moreover, at important events, British civil servants displayed a much greater attachment to national approaches and policy paradigms than that predicted by neofunctionalism.

For intergovernmentalists, on the other hand, the long saga of delay and dispute serves only to emphasise the grip which states hold on the implementation of secondary legislation, even in relatively mundane functional policy areas. When the situation became critical in the 1980s, Britain made full use of the discretion provided by EC law and only implemented the Directive when domestic conditions suited. Indeed, had it not been for water privatisation, Britain might well have remained obdurate. In spite of the limited participation of the Article 10 Management Committee,²⁸ state executives retain important powers in relation to the Directive. Far from authority transferring to supranational institutions such as DG XI, the DoE is solely responsible for designating new waters, interpreting the results of monitoring and communicating the results

to the Commission, which lacks direct enforcement powers. Although the British state no longer monopolises the links between supranational and sub-national actors, it retains significant power, even if the creation of new agencies such as the NRA and OFWAT has reduced its domestic autonomy and leverage.

How might intergovernmentalists respond to the claim that outcomes have diverged significantly from the expected preferences of British negotiators? First, they say that the matter was ultimately one of 'low politics' where one would not expect state-centric theories to perform particularly well. This is undoubtedly true. But to repeat the point made earlier, whether the steady accretion of secondary legislation provides as important a source of constraint on state autonomy as the concessions made at IGCs is properly a matter for detailed empirical study. Moravcsik (1993, 53) is wrong when he asserts that integration proceeded from a very low baseline.²⁹ Britain most certainly did have a policy on bathing water prior to the EC's intervention, albeit an informal one. There was no need for policy co-ordination in the EC, because existing policy already suited Britain's economic circumstances and was, if eminent scientists like Brendan Moore (1977) and Eric Ashby are to be believed, justified by the best scientific evidence.

A second possible defence is that since states gave the Directive their unanimous blessing in the first place, the saga in fact represents an exercise of sovereignty rather than its abdication. This argument holds little water: it is scarcely credible to suggest that the political outcomes of the policy, which amount to £ billions of extra investment, important changes to established principles and practice, and the establishment of costly monitoring and reporting procedures, are even broadly consistent with 'state preferences' in the 1970s. More damagingly, if the policy was so acceptable to states why did they push to have it re-evaluated, better still emasculated, in the 1990s? Even then, Britain's attempts to re-assert control over policy under the cloak of subsidiarity only resulted in more unintended consequences and stoked up still further the domestic political debate about coastal water quality. Although Delors seemed happy to surrender a few environmental Directives to save the wider integrationist project, DG XI was not and used the opportunity presented by the revision process to try and ratchet up standards. Parenthetically, the transmogrification of the UWWT Directive indicates that the Government still has not learnt fully how to master the policy making process in the EC. While a fuller

analysis must await the release of cabinet papers, the Treasury's attempt to slow implementation in 1993 looks suspiciously like an inter-departmental battle to rein in the DoE's 'slack' in the Environment Council, rather than the co-ordinated policy of a state acting as a "single agent" (Moravcsik, 1994, 4).

Finally, did domestic and supranational actors mobilise simply to "claw back" influence lost to state executives during the adoption phase (Moravcsik, 1994, 53)? Again this is problematical. Britain accepted the bathing water Directive reluctantly; its attitude was defensive. The net effect of the Directive has been to force central government to become more closely involved in matters it had traditionally - and happily - left to sub-national bodies. Ironically, European legislation has led to a *centralisation* of power rather than its diffusion, but at the cost of reduced central government autonomy in that it now has to reconcile domestic objectives like privatisation with external obligations.

6. Conclusion

In an article published over a quarter of a century ago, Donald Puchala (1972) likened the study of the EC to a parable in which several blind men try to understand the form of an elephant. Because each man touches only one small part he comes to a different view of what the whole animal looks like. Yet each man touches enough "to disbelieve his fellows and maintain a lively debate about the nature of the beast" (*ibid.*, 1972, 267). To a large extent this remains the case today. According to Pollack (1996, 430), the unwillingness shown by analysts to accept the fundamental insights generated by workers in other theoretical traditions is the main barrier to further progress. Following Keohane and Hoffman (1990, 289), this article argues that the state centric arguments would have considerably greater credibility if they could demonstrate that the steady accretion and implementation of secondary legislation has not significantly reduced the autonomy of states either domestically or supranationally. More specifically, it advances the argument that studying outcomes generated by policies over longer time periods provides a much firmer basis upon which to adjudicate between rival truth claims. Our study finds strong evidence of spillover and other unintended consequences. Obviously, detailed empirical research of implementation in other areas of EC environmental policy *may* show coastal water to have

been an isolated “miscalculation” to use Moravcsik’s phrase, although the spiralling compliance costs and implementation problems associated with other ‘water’ Directives suggests that it is not.

Finally, our study demonstrates how much is missed when the EC is studied from either an IR *or* a policy analysis perspective. Rather, the ‘external’ dynamic of integration and the ‘internal’ policy processes in the British water sector remain intimately nested, one within the other. It demonstrates empirically that longer term outcomes at the national level informed the position taken up by the British state during subsequent negotiations, while ‘history-making’ decisions in turn altered the perceptions and resources held by actors as they clustered around the implementation of particular policies. The relationship was both reciprocal and seamless.

References

- Barrett, S., Fudge, C., (eds) (1981) Policy and Action. Methuen: London.
- Barrow, G., (1981) Microbial Pollution of Coasts and Estuaries. Paper to the IWPC Conference, 1980, Buxton.
- Becher, T., (1989) Academic Tribes and Territories. Open University Press: Milton Keynes.
- Bungartens, H., (1978) Umweltpolitik in Westeuropa. Europa Union Verlag: Bonn, Germany
- Burley, A., Mattli, W., (1993) Europe Before the Court. International Organisation, 47, 41-76.
- Byatt, I., (1996) The Impact of EC Directives on Water Customers in England and Wales. Journal of European Public Policy, 3, 4, 665-674
- CEC, (1977) State of the Environment: First Report. CEC: Brussels.
- Clark, R.B., (1983) If You Can't See It, Its Safe. Marine Pollution Bulletin, 14, 7, 241-242.
- Clegg, S., (1989) Frameworks of Power. Sage: London.
- DoE (1979) Advice on the Implementation in England and Wales of the EEC Directive on the Quality of Bathing Water. 9 July 1979. DoE: London.
- DoE, (1989) £1.1 Billion Improvements to Bathing Water. DoE New Release, 547, 20 October 1989.
- DoE, (1996) More Bathing Waters Meet EC Standard... DoE News Release, 495, 20-11-96.
- DoE, Ministry of Agriculture Fisheries and Food, Scottish Development Department... (1990) A Joint Memorandum... In: HOLSCEC, (1991) Municipal Waste Water Treatment: Volume II, Evidence. HL Paper 50-II. HMSO: London.
- Easton, D., (1965) A Framework For Political Analysis. Prentice Hall: Englewood Cliffs, NJ.
- ENDS (Environmental Data Services Ltd), (1991) Ministers Agree Directives on Wastewater, Diesel Emissions and Chemical Testing. ENDS Report, 194, 34-36.
- ENDS (Environmental Data Services Ltd), (1993) Lies, Damned Lies and Statistics in the Great Water Debate. ENDS Report, 227, 16-19.
- ENDS (Environmental Data Services Ltd), (1997) Water Companies Increase Moves To Sewage Disinfection. ENDS Report, 264, 14-15.
- Europe Environment, (1996) Bathing Water: 1995 Report Uncovers Member States' Failings. Europe Environment, 478, 31 May 1996, 8-10.

- Geddes, A., (1994) Implementation of Community Environmental Law: Bathing Water. Journal of Environmental Law, 6, 1, 125-135.
- George, S., (1996) The European Union: Approaches From International Relations. In: Kassim, H., Menon, A., (eds) The European Union and National Industrial Policy. Routledge: London.
- Golub, J., (1996a) State Power and Institutional Influence in European Integration: Lessons From the Packaging Waste Directive. EUI Working Paper RSC 96/3. European Union Institute: Florence.
- Golub, J., (1996b) Why Did They Sign? Explaining EC Environmental Policy Bargaining. EUI Working Paper RSC 96/52. European Union Institute: Florence.
- Haas, E., (1964) International Integration. In: Hekius, D., *et al*, (eds) International Stability. John Wiley: New York.
- Haas, E., (1968) The Uniting of Europe. Stanford University Press: Stanford, CA.
- Haigh, N., (1989) EEC Environmental Policy and Britain (2e) Longman: Harlow.
- Haigh, N., (1992) Manual of Environmental Policy. Carter Mill: London.
- Haigh, N., (1995) Personal Communication, 18-8-95.
- Haigh, N., and Lanigan, C., (1995) Impact of the European Union on UK Environmental Policy Making. In: Gray, T., (ed.) UK Environmental Policy in the 1990s. Basingstoke: Macmillan.
- Hassan, J., (1995) Lessons From the Beaches. Department of Economics and Economic History Working Paper, Series No. 95-02. Manchester Metropolitan University: Manchester.
- Hix, S., (1994) Approaches to the Study of the EC. West European Politics, 17, 4, 1-31.
- Hix, S., (1996) CP, IR and the EU! A Rejoinder to Hurrell and Menon. West European Politics, 19, 4, 802-804.
- H.M. Government, (1970) The Protection of the Environment. Cmnd 4373. HMSO: London.
- HOC CPA (House of Commons Committee on Public Accounts), (1992) Sale of the Water Authorities in England and Wales: Seventh Report. HMSO: London.
- HOCE SC, (1994) DoE Estimates 1994-5 and Annual Report 1994. HC Paper 414. HMSO: London.
- Hogwood, B.W., (1987) From Crisis to Complacency? Oxford University Press.
- HOLSCEC, (1975) Thirtieth Report. Cmnd 298. HMSO: London.
- HOLSCEC, (1978) Environmental Problems and the Treaty of Rome. HL Paper 68. HMSO: London
- HOLSCEC, (1979) Approximation of Laws Under Article 100 of the EEC Treaty. HL Paper 131. HMSO: London.

- HOLSCEC, (1991a) Municipal Waste Water Treatment: Volume I, Evidence. HL Paper 50-I. HMSO: London.
- HOLSCEC, (1991b) Municipal Waste Water Treatment: Volume II, Evidence. HL Paper 50-II. HMSO: London.
- HOLSCEC, (1994) Bathing Water: Volume I, Report. HL Paper 6. HMSO: London.
- HOLSCEC, (1995) Bathing Water Revisited. HL Paper 41. HMSO :London.
- Hurrell, A., Menon, A., (1996) Politics Like No Other: Comparative Politics, International Relations and the Study of the EU. West European Politics, 19, 2, 386-402.
- Jordan, A.J., (1996) From Brussels to Blackpool and Southport: "Post Decisional Politics" in the European Community. In: Hampshire-Monk, I., Stanyer, J., (eds) (1996) Contemporary Political Studies- Volume III. Political Studies Association: University of Belfast.
- Jordan, A.J., (1997) 'Post-Decisional' Politics in the EC: the Implementation of EC Environmental Policy in Britain. Unpublished PhD thesis. University of East Anglia, Norwich, UK.
- Keohane, R., Hoffman, S., (1990) Conclusions: Community Politics and Institutional Change. In: Wallace, W., (ed) The Dynamics of European Integration. Pinter: London.
- Krislov, S., Ehlermann, C., Weiler, C., (1986) The Political Organs and the Decision Making Process in the U.S. and The EC. In: Cappelletti, M., Seccombe, M., Weiler, J., (eds) Integration Through Law. Volume I, Book 2. De Gruyter:
- Leibfried, S., Pierson, P., (eds) (1995) European Social Policy. Brookings Institute: Washington.
- Levitt, R., (1980) Implementing Public Policy. Croom Helm: London.
- Lindberg, L., Scheingold, S., (1970) Europe's Would-Be Polity. Prentice Hall: Englewood Cliffs, NJ.
- Lowi, T., (1964) American Business, Public Policy, Case Studies, and Political Theory. World Politics, XVI, 4, 677-715.
- Macrory, R., (1992) The Enforcement of Community Environmental Laws: Critical Issues. Common Market Law Review, 29, 347-369.
- Macrory, R., (1996) Court Quashes Gummer's Decisions on Urban Wastewater Treatment. ENDS Report, 253, 46-47.
- Majone, G., (1994) The Rise of the Regulatory State. West European Politics, 17, 3, 77-101.
- Majone, G., (1996) Regulating Europe. Routledge: London.
- Majone, G., Wildavsky, A., (1978) Implementation as Evolution. Policy Studies Annual Review, 2, 103-117.

- Marks, G., (1992) Structural Policy In The EC. In: Sbragia, A., (ed) Euro-Politics: Institutions and Policy Making in the 'New' EC. The Brooking Institute: Washington DC.
- Marks, G., (1993) Structural Policy and Multi-Level Governance in the EC. In: Cafruny, A., Rosenthal, G., (eds) The State of the European Community. Longman: London.
- Marks, G., (1996) Exploring and Explaining Variation in EU Cohesion Policy. In: Hooghe, L., (ed) Cohesion Policy and European Integration. Oxford University Press: Oxford.
- Mendrinou, M., (1996) Non-Compliance and the European Commission's Role in Integration. Journal of European Public Policy, 3, 1, 1-22.
- Moore, B., (1977) The EEC Bathing Water Directive. Marine Pollution Bulletin, 8, 12, 269-272.
- Moravcsik, A., (1993) Preferences and Power in the EC: A Liberal Inter-governmentalist Approach. Journal of Common Market Studies, 31, 473-524.
- Moravcsik, A., (1994) Why the EC Strengthens the State: Domestic Politics and International Co-operation. Working Paper 52. Center for European Studies, Harvard University Department of Government.
- Moravcsik, A., (1995) Liberal Intergovernmentalism and Integration: A Rejoinder. Journal of Common Market Studies, 33, 4, 611-628.
- MRC (Medical Research Council), (1959) Sewage Contamination of Bathing Beaches in England and Wales. MRC Memorandum 37. HMSO: London.
- National Consumer Council, (1994) Water Price Controls. July 1994. NCC: London.
- OFWAT, (1993) Paying for Quality. OFWAT: Birmingham.
- O'Neill, M., (1996) The Politics of European Integration: A Reader. Routledge: London.
- Pollack, M.A., (1996) The New Institutionalism and EC Governance. Governance, 9, 4, 429-458.
- Pressman, J., Wildavsky, A., (1973) Implementation. University Of California Press: Berkeley.
- Puchala, D., (1972) Of Blind Men, Elephants and International Integration. Journal of Common Market Studies, 10, 267-284.
- Puchala, D., (1975) Domestic Politics and Regional Harmonisation in the European Communities. World Politics, 27, 496-520.
- Putnam, D., (1988) Diplomacy and Domestic Politics. International Organisation, 42, 3, 427-460.
- RCEP, (1984) Tenth Report. Cmnd 9149. HMSO :London.

- Renshaw, D., (1979) How and Why Legislation is Produced. Water Pollution Control, 78, 2, 178-183.
- Rhodes, C., Mazey, S., (1995) The State of the European Union? Longman: Harlow.
- Rhodes, R., (1988) Beyond Westminster and Whitehall. Unwin Hyman: London.
- Richardson *et al*, (1992) The Dynamics Of Policy Change: Lobbying and Water Privatisation. Public Administration, 70, 157-175.
- Risse-Kappen, T., (1996) Exploring the Nature of the Beast: IR Theory and Comparative Policy Analysis Meet the EU. Journal of Common Market Studies, 34,1,
- Sabatier, P.A., (1986a) What Can We Learn From Implementation Research? In: Kaufman, F., Ostrom, V., Majone, G., (eds) Guidance, Control, Performance Evaluation. De Gruyter: Berlin.
- Sabatier, P.A., (1986b) Top-Down and Bottom Up Approaches to Implementation Research. Journal of Public Policy, 6, 1, 21-48.
- Sabatier, P.A., Jenkins-Smith, H., (1993) Policy Change and Learning. Westview Press: Boulder.
- Sharp, R., (1997) British Environmental Diplomacy In Europe. In: Lowe, P., Ward, S., (eds) (1997) British Environmental Politics. Routledge: London
- Williams, R., (1994) The European Commission and the Enforcement of Environmental Law: An Invidious Position. Yearbook of European Law, 14, 351-400.
- Wincott, D., (1995) Institutional Interaction and European Integration. Journal of Common Market Studies, 33, 4, 597-609.
- WSA (Water Services Association), (1990) Draft EC Directive Concerning Municipal Waste Water Treatment: General Comments. WSA: London.
- Zito, A., (1995) Integrating the Environment into the EU: The History of the Controversial Carbon Tax. In: Rhodes, C., Mazey, S., (1995) The State of the European Union? Longman: Harlow.

23 April 1997

Norwich, UK

Endnotes

- ¹ See: Hurrell and Menon (1996, 397).
- ² This article focuses mainly upon the first 'pillar' of the European Union and the actors which interact within it.
- ³ On this matter, see the recent debate between by Dan Wincott (Wincott, 1995) and Andrew Moravcsik (Moravcsik, 1995).
- ⁴ Helmut Kohl likened bathing water standards to those for children's toys and tractor roll bars (The Financial Times, 29-6-92). Delors reportedly said it was "ridiculous" that the Commission monitored the quality of bathing water.
- ⁵ As will become clear, this is important. It is claimed that evidence of significant inter-Treaty integration comes from policy areas where there was no national policy prior to intervention by the EC (Moravcsik, 1994, 53).
- ⁶ The others were equilibrium, output failure (the inability of the political system to produce an acceptable set of policies despite political commitment) and spillover (forward linkage).
- ⁷ He asserts that "diffusion" theorists like Marks focus upon areas of distributive policy - specifically regional policy - where the involvement of sub-national actors is necessary, and areas where Europeanisation starts from a very low baseline (Moravcsik, 1994, 53) (see above).
- ⁸ The policy analysis literature is replete with examples where national government fails for one reason or another to secure its policy objectives (e.g. Pressman and Wildavsky, 1973; Sabatier, 1986b; Rhodes, 1988).
- ⁹ Moravcsik (1993, 514-5) accepts that any delegation of authority to supranational actors involves political risks for states. In the case of enforcement, however, he claims that supranational oversight reduces transactions costs and adds credibility to national policies, and on balance suits states.
- ¹⁰ There is an important ambiguity in Moravcsik's conceptualisation of state autonomy (Wincott, 1995, 601). Implementation problems *could* be interpreted as the corollary of state attempts to use the EC to drive through policies against domestic opposition. To do this the state would need to be relatively autonomous of societal pressures i.e. have "slack". This is in keeping with an instrumental view of EC regulation, rather than one which regards it as an external 'threat' that has to be defended against. However, elsewhere, Moravcsik (1993, 484) asserts that societal groups "impose a basic constraint on governments." Significantly, the precise origins and degree of state autonomy is not properly theorised by LI.
- ¹¹ Recently, Moravcsik (1995, 613) suggested that the focus on 'grand bargains' is a "theoretically justified first step... [which] does not foreclose the possibility that LI... will be helpful in explaining many everyday decisions as well."
- ¹² See Haigh (1989, 13-23) for a crisp discussion of the main approaches to pollution control.
- ¹³ Significantly, the memorandum does not mention *sewage* pollution explicitly in this regard, which tends to have fairly local effects.
- ¹⁴ A few years later, the Commission admitted that the Directive required "substantial investment" in new sewage treatment facilities (CEC, 1977, 25).
- ¹⁵ Recall that the environment was not even mentioned in the original Treaty of Rome. The Commission tried to get around this by relying on the 'catch all' powers of Article 235 to supplement the Single Market provisions contained in Article 100. The debate in Britain about the basic legality of EC

environmental policy rumbled on for several more years (see: HOLSCEC, 1978; HL Debs. Vol. 394, 4-7-78, Cols. 848-911; HOLSCEC, 1979).

¹⁶ Recall that environmental affairs did not achieve full Directorate-General status until 1981.

¹⁷ It later emerged that if Blackpool had been designated, North West RWA would have faced a bill of £25 million (Clark, 1983, 242).

¹⁸ The NRA was amalgamated into a national Environment Agency in 1996.

¹⁹ An editorial in the Financial Times (The Financial Times, 3-8-89) reminded readers that putting up water bills and injecting public money did not square with one of the main justifications for privatisation: getting private capital markets to finance environmental improvements.

²⁰ Dry weather reduces the use of stormwater overflows, while sunshine kills bacteria in seawater

²¹ This was the cost of fitting primary treatment to all significant coastal discharges under what came to be known as the Patten 'initiative'.

²² The DoE must have seen costings prepared by the Water Services Association (WSA) in February 1990 which suggested that compliance costs "would be well in excess of" £7 billion with annual running costs of around £400 million (WSA, 1990, 2) - figures remarkably similar to OFWAT's final assessment.

²³ Interestingly, the HOLSCEC's report (HOLSCEC, 1991a, 51) contains a footnote reporting a Commission estimate for compliance of £28 billion and a German Government one of £140 billion.

²⁴ For example, in January 1995 the DoE tried to exempt two water companies from making investments in the Severn and the Humber estuaries totalling £150 million by re-defining the border between coastal and estuarine waters (The Independent on Sunday, 15-1-95). The respective local authorities promptly complained and had the decision overturned by a judicial review. The High Court ruled that the Secretary of State had interpreted EC law incorrectly and should have based his decision on objective features such as topography or salinity and not financial considerations, which of course were paramount (Macrory, 1996). The schemes have now been restored to the compliance programme (Hansard, Vol. 284, 29-10-96, Col. 68).

²⁵ The companies in question seem to be developing their own interpretation of EC obligations, separate to that of the Government, to whom the Directive is formally addressed. Their aim is to meet the considerably stricter 'guideline' standards rather than just the weaker, but mandatory, imperative standards.

²⁶ It is significant that the Commission played safe by basing the Directive on both Articles 100 (the establishment of a common market) and 235. In an explanatory memorandum appended to its proposal, it offered two justifications for Community involvement: (1) marine pollution may cross national frontiers; (2) tourists who are nationals of one Member State may contract infectious diseases when bathing in the waters of another state. The Commission did not, however, offer any evidence to support these claims.

²⁷ In Moravcsik's (1993, 484) terms, the "slack" which the British Government enjoyed in the mid 1970s has decreased significantly. The question posed by neofunctionalists is why?

²⁸ It may be significant that the bathing water Directive (Article 10) simply "set up" a Management Committee which would take decisions on the basis of a weighted majority. The proposal for the new Directive on the other hand, states explicitly that the Commission "shall be assisted" by a Committee (OJ C112, 22-4-94, 6). There has been a long-standing reluctance to use a committee procedure relying on majority voting to change a Directive adopted by unanimity.

²⁹ For reviews of British policy prior to 'Europeanisation' see: the RCEP (1974) and H.M. Govt. (1970).