Regionalization as an Effect of Offshore Oil and Gas Exploitation: A Case Study of the North Sea

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REGIONALIZATION AS AN EFFECT OF OFFSHORE OIL AND GAS EXPLOITATION:
A CASE STUDY OF THE NORTH SEA

BY

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This study attempts to analyze whether oil and gas exploitation in a semi-enclosed sea will result in closer relations being developed in the region leading to the establishment of a special regime for that sea. The study area is Northwestern Europe which is centered on the North Sea. All the littoral states of Northwestern Europe have major interests in the North Sea, one of which is oil and gas exploitation.

This study is developed through the examination of the activities in the North Sea, related to oil and gas production, which tend to join the region together followed by an analysis of those factors which would retard the regionalization process. Of particular importance is whether the inhibiting factors in the North Sea are long or short term problems.

First, an overview of the North Sea resources is given to demonstrate their nature and the problems associated with offshore activities. Next, two theories of regional integration are examined, Communications Theory and Neo-functionalism. Aspects of both these theories are important in determining whether regionalism is increased by subsea oil and gas activities. Then the existing level of regionalism is shown by a history of organizational development in Northwestern Europe, as well as the presentation of information on economic, social, and institutional interdependencies.

The centripetal forces for regionalism include boundary delimitation, pollution agreements, resource agreements, fisheries arrangements,
oceanographic organizations, and multi-national corporations. The inhibiting factors for regional cohesion are conflict in the uses of the sea, the multiplicity of national laws in the sea, and governmental attitude on the North Sea as expressed by production timetables for North Sea oil and gas.

After a careful examination of the significance of both opposing forces in the North Sea, the findings were that regionalism, for the moment, is not being appreciably strengthened by oil and gas activities in the area. This was because: 1) Norway, soon to be an oil exporter, has developed policies which are contrary to the interests of the rest of Northwestern Europe, 2) No methods have been created whereby all the countries in the region can respond to each others' needs and problems, 3) The organizational structures in Northwestern Europe have not yet succeeded in promoting definitive regional programs directed toward the North Sea resources; and 4) The formal acceptance of continental shelf boundaries separates the North Sea into zones of control which has resulted in the countries viewing oil and gas problems as national not regional.

There was found to be, however, pressure in the area for the development of a regional consensus that would eventually lead to the establishment of a special regime for the North Sea. Pollution problems, conflicts in the sea, the need to harmonize oil activities, and the existing infrastructure in Northwestern Europe are areas which focus attention on the need for compromise in the area. With this
pressure in mind, a regime for the North Sea is proposed. Finally, the applicability of the study to other regions is examined and four points are suggested which would be important if studies of this type are done on other sea regions.
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Chapter 1

Introduction

With the industrialization of man's society, there has been a need to fuel the mechanization so vital to its success. From human labor to waterpower, coal, and then oil and gas, man has searched for the means to satisfy his appetite for energy. The recent Arab oil embargo has emphasized the delicate balance that exists between maintenance and total disruption of man's way of life due to his dependence on energy. Moreover, as the availability of hydrocarbons declines, there is increased competition for the resources that remain.

In a region occupied by several nations the discovery of new deposits of oil and gas could result in two events; disharmony and decay of the relations among the states as a result of acrimonious disputes over the oil, or an increase in cohesion and regional stability which will come from the recognition that all the states will benefit by the efficient management and use of these resources.

The effect of hydrocarbons on a region is more pronounced if the resources are found offshore in the continental shelf shared by all the countries. Ownership of the oil and its importance, compared to the other uses of the sea, are questions which must be resolved before exploitation can take place. Northwestern Europe, centered around the North Sea, is one such region where the presence of offshore energy

For the purposes of this study the region of Northwestern Europe is composed of Norway, Denmark, the Federal Republic of Germany, Belgium, the Netherlands, Luxembourg, France, Ireland and the United Kingdom. See "Study Area" in this chapter for the reason behind the selection of this area.
resources can increase regionalism\textsuperscript{2} through the development of a common approach to, and management of, offshore oil and gas.

The purpose of this thesis is twofold; to detect whether exploitation of North Sea oil and gas resources increases regional cohesion, and to determine whether the presence of these resources will encourage the creation of a special regime\textsuperscript{3} for the North Sea.

\textbf{JUSTIFICATION FOR THE STUDY}

It should be stated that this paper is a study of a political region, and the spatial processes within that region which result from the presence of a natural resource. Traditionally, geographers have been associated with the study of regions and its areal components but, when studying the process of regional political cohesion and integration, the contributions from the field of geography are found lacking. The structure of the nation-state and the environment in which it works have been thoroughly studied. However, the various processes taking place within the state or among several states have not been adequately studied. In this fact this study finds its purpose: to help advance politico-geographic knowledge and its literature by examining how the presence of vital resources within an area can encourage or retard the process of regionalization.

\textsuperscript{2}Regionalism is an idea, feeling or sense of closeness created by a group of states working together to solve common problems peacefully. Regionalization is the process by which closeness and interdependence are created and maintained. It may be a forerunner to, but does not necessarily result in, political integration.

\textsuperscript{3}A special regime would be an intergovernmental or supranational organization which would set certain policies in the sea that are binding on all member states.
Furthermore, the process of regionalization being examined in this study is centered around the sea. As the nations of the world extend their sovereignty farther out into the seas and oceans to control the resources found there, will political regions that border on seas seek to extend special jurisdictional arrangements over that sea? If so, what kind of controls would these arrangements entail? A determination of the question of whether the process of regionalization will result in regional controls over the sea would be a definite benefit not only for the field of geography but also in studies on the law of the sea.

FORMULATION OF THE RESEARCH PROBLEM

Statement of the Problem

The effect that development of a particular ocean resource can have on the process of regionalization is the subject of this thesis. The problem can be stated concisely; Have regional ties been strengthened or eroded in Northwestern Europe by the discovery of oil and gas in the North Sea? Furthermore, is there a movement toward the development of a special regime in the North Sea to use and protect the oil and gas resources?

Nature of the Problem

This problem has been particularly designed to determine how offshore oil and gas resources can increase or diminish the process of regionalization. The case study is of the North Sea resources, but it is hoped that the findings here can be applied to other areas of the world. The study itself will first examine the background of the recent
oil and gas exploration and exploitation in the North Sea, and to give a general outlook on the difficulties and potential of these resources.

The second step in the problem will be to provide a foundation for the case study by considering the theoretical basis behind the process of regionalization, as well as that behind social and political integration.

Next, the centripetal forces present in Northwestern Europe, other than the interest in oil and gas deposits, will be examined. This section will develop a perspective on the base level of regionalism which is subject to the influences of offshore oil and gas exploitation.

The fourth step will be to examine co-operation to date among the littoral states of the North Sea as it pertains to offshore oil and gas. This section will look at bilateral and multilateral treaties dealing with shelf areas of national jurisdiction, pollution from oil, and resources that cross jurisdictional boundaries. Also of interest will be agreements to send resources of one country to other countries.

After examining co-operative efforts, the problems preventing increased regionalism will then be examined. This will encompass differing national legislation on leasing arrangements and exploitation of the North Sea resources, potential conflicts between oil and gas exploration and other uses of the sea, and differing objectives and timetables in oil and gas exploitation. These aspects will be examined to see if they will create any permanent centrifugal forces which would counteract the process of regionalization in Northwestern Europe. Finally, a consideration will be made of the effect that regionalism will have on the law of the sea, and whether studies of
this type can be applied to the development of regionalism in other sea areas of the world.

**Origin of the Problem: Review of Relevant Literature**

Since World War II one of the most pervasive occurrences in the political geography of the world is the development of a regional outlook and intra-regional ties. Through a common ideology or other catalyst, the countries of the world are looking for regional solutions to satisfy common problems. Such regional economic organizations as the EEC, defense arrangements as SEATO, and political groups as the Arab League are just some of the manifestations of this urge toward regionalism. This trend may also in time be evident in the Law of the Sea where areas of the world may band together to find a solution to common marine problems. A discussion of this possibility can be found in Dr. Lewis M. Alexander's article entitled, "Regionalism and the Law of the Sea: The Case of Semi-enclosed Seas."4 In this article, Dr. Alexander discusses the possibility of special jurisdictional arrangements being established within semi-enclosed seas to protect the interests of the bordering countries. Here, then, is the origin of this problem. Will regionalism in Northwestern Europe be increased by interest in the North Sea oil and gas, and will regional controls be extended to this area to protect the littoral states?

When studying various aspects of the problem under discussion, a fair amount of information comes to light. While there is no substantive

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work on the effect that offshore energy resources have had on regionalism, there is a great amount of literature written on political and economic regions and regionalization. These studies fall basically into two categories; 1) what criteria does one use to delimit an international region, and what unique characteristics does that region have?\(^5\); and 2) what are the forces which foster political integration?\(^6\) There are also numerous studies on the European area in particular.\(^7\) The problems and potential of North Sea oil and gas are also well represented in this literature.\(^8\) All these works give a broad picture of Northwestern Europe, offshore oil and gas, and the process of regionalization which will lend support and background to this particular study.


METHODOLOGY

Study Area

The North Sea is a semi-enclosed sea of 169,000 square miles.\(^9\) Eighty percent of its periphery is occupied by land area. Only eighteen percent of this sea is deeper than 200 meters, primarily in the area of the Norwegian Trench. Besides being the source of the oil and gas, the North Sea is an area of intensive fisheries activities and is the site of several of the largest ports of the world (see map 1).

The region of Northwestern Europe, for the purposes of this study, is composed of Norway, Denmark, the Federal Republic of Germany, the Netherlands, Belgium, Luxembourg, France, Ireland, and the United Kingdom; all these countries border the North Sea except Luxembourg and Ireland. Luxembourg is included because it is in a complete customs union with Belgium and any economic impact on Belgium from the North Sea will be equally felt in Luxembourg. Ireland has been selected because it is an EEC member and has close trade ties with the United Kingdom and the other North Sea countries. While Italy is also an EEC member, it cannot be a major consideration in this study because its principal maritime interest is with the Mediterranean Sea and not the North Sea.

The North Sea and Northwestern Europe have been selected as the study area because: 1) there is a history of cooperation in the area and this fact permits an examination to be made on the effect that the

\(^9\) The physical dimensions of the North Sea are from Alexander, "Regionalism and the Law of the Sea: The Case of Semi-enclosed Seas," p. 178.
NORTHWESTERN EUROPE

Map 1

Source: CARTOCRAFT MAP, EUROPE NO. 8002
North Sea oil and gas deposits have on the regionalism in the area;
2) there are no active disputes in the area over who owns the oil and
almost all sea boundaries in the North Sea have been established (see
map 2); and 3) there is probably better data availability of this
particular region than on any other one in the world.

**Data Employed**

Extensive data exists in a variety of sources that relate to the
North Sea and its littoral states. The information provided a firm
basis for testing the hypotheses (see page 11). 1) All information for
an overview of the North Sea oil and gas resources was obtained from
petroleum and technical journals, especially *World Oil* and *Ocean
Industry*. That overview encompasses the problems and potential of
North Sea oil and gas. 2) Trade data and organizational interrela-
tionships were acquired from the *Yearbook of International Organizations*
and from trade statistics published by the OECD, EEC, and the United
Nations. That information was used to demonstrate the extent to which
regionalization has already occurred. 3) Co-operative efforts directly
related to the North Sea can be acquired from treaties and periodical
materials. The Department of State's series, "*Limits in the Sea,*" was
helpful, as was *Offshore* and other journals. 4) Data on problems in
the North Sea which may inhibit the process of regionalization was
obtained from legal journals and other periodicals concerned with the
Law of the sea and ocean management. Some of them are: the *American
Journal of International Law*, *International and Comparative Law Quarterly,*
and *Ocean Development and International Law*. In all data categories
mentioned above, information supplied by national information services was also employed.

Hypotheses

For a solution to the problem of the effect that offshore oil and gas has on the process of regionalization, two hypotheses will be tested. It is hypothesized:

1) That the high cost of imported oil and the incidence of oil and gas in the North Sea will lead to an increased sense of regionalism in Northwestern Europe because there are the common needs to share and manage energy resources and to thereby lessen the adverse effects of imported oil on the collective economies.

2) That one result of regionalism will be concerted pressure toward the creation of a supra-national agency to protect the interests of Northwestern Europe in the North Sea.

Specific Methodological Techniques

In a study of this type, the form of most of the information obtained does not allow for quantification. What must be done, then, is a meticulous analysis of all relevant information dealing with the process of regionalization in the North Sea area, with all conclusions being inferred from the available data. This method, if done properly, will give an objective solution to the problem. The following is an outline of the methodological technique to be employed in this study.

1) Establish, through a variety of indicators, that a certain level of regionalism already exists in the area.

2) By means of a study of treaties and other bi-lateral or multi-
lateral agreements establish that there are also co-operative efforts on the North Sea oil and gas resources. These facts will be used to demonstrate an increase in regionalism.

3) National legislation and authoritative government statements will show different attitudes on the North Sea oil and gas resources and indicate inhibiting factors to regionalism. Most important is whether these problems are long range in nature or can be easily solved.

4) The extent to which regionalism is increased and the probability of the development of a special regime for the North Sea will be dependent on whether the problems extant today are long range or short range and what must happen to solve these problems.
Today, the industrialized countries of Northwestern Europe are engaged in a frantic search for a safe and dependable supply of energy resources. As fuel consumption steadily increases there is a decline in available reserves and a concurrent rise in the political problems with the major oil exporting countries in the Middle East. Up to the 1970's Europe had been forced to import approximately 90% of the oil it consumed and used very little natural gas, only manufactured gas. Since 1970, however, large quantities of oil and gas have been found amidst one of the greatest fuel markets in the world. This discovery of oil and gas in the North Sea could promote co-operation in Northwestern Europe, or it could prove to be divisive for regional cohesion. In order to analyze the forces that inhibit or encourage regionalization a firm understanding of the nature of the North Sea oil and gas resources must be acquired.

Geology and Climatology of the North Sea

The geology of the North Sea floor has all the attributes needed for fuel reservoirs. Underlain by thick sediments, it is theorized that the North Sea is a depression in the Northwest European sedimentary basin. However, until the discovery of the Groningen natural gas field in north-east Netherlands in 1959, little was known about the geological structure in the North Sea and little prospecting was initiated. 10

Regionally, gas is found south of a line extending east from the English-Scottish border. Both oil and gas are found north of the line. The gas deposits in the Southern sector consist of almost pure methane, and probably originates from coal deposits deep in the sedimentary rocks. The gas drifts upward until the proper trap is encountered. The Northern sector has sediments from the Jurassic period and has salt domes and other structures necessary for pools to develop. The oil and gas are often found in conjunction with each other which necessitates a separation process. When geologists are searching for hydrocarbons, three requirements must be met: 1) suitable source rocks, 2) suitable reservoir rocks, and 3) suitable cap rocks. When all these requirements are found together, then the potential for oil in the area is high. Once the initial finds are made, and their nature determined, similar geophysical structures can be found in other areas of the sea floor, a fact which makes exploratory operations easier.

When participating in exploratory drilling (and subsequently, exploitation), a major problem facing offshore drilling is the set of meteorological conditions in the marine area. It is said that the North Sea has the most sustained bad weather of any ocean area in the world.13


12 Walmsley, pp. 5-6.

13 This type of statement appears so frequently throughout the literature on the North Sea that I feel that no specific citation is necessary. The general meteorological conditions were obtained from R. Hohn, "On the Climatology of the North Sea" found in North Sea Science, ed. E.D. Goldberg (Cambridge, Mass.: MIT Press, 1973), pp. 183-236.
Classified as a transition zone between continental and oceanic climatology, the weather conditions exhibit extreme variability. Situated near the path of the Atlantic Depressions, the North Sea is frequently visited by these climatic phenomena, and weather conditions change rapidly and frequently. This incidence of conflicting weather masses create numerous storms with winds and waves reaching as high as 100 m.p.h. and 90 feet respectively. There are always many clouds and high humidity, along with low visibility and frequent fog conditions. Clear days are very rare and precipitation is high. All phases of petroleum exploration and production must be geared to withstand these weather phenomena.

Technology and the North Sea

Given the adverse nature of the North Sea climate, major advancements in technology had to be perfected. One such advance is in the area of drilling rigs. The traditional jack-up rig, which stands on the ocean bottom and is used in shallow water, is not safe in deeper, stormy waters. Instead, the semi-submersible is the rig destined for wide use in the North Sea. These giant rigs are basically free-floating and use large supports which are similar to pontoons. When drilling is taking place, huge anchors are used to help the rig remain stationary. Besides being able to drill in deeper water and withstand heavy wave and wind conditions, these rigs are especially useful due to their mobility. Constructed occasionally with engines, they are either self-propelled or can be towed from site to site under good weather conditions. This fact is very important when exploratory wells are being drilled.
The mobility lessens the number of rigs needed in an oil or gas field, with a resultant decline in expenses.

Another advance is the subsea completion of well-heads. This allows the exploiting company to forego the necessity of completing the well at the surface. It also precludes the need for lengthy conductor piping from the ocean floor, an advance that solves the danger of pipe breakage in stormy seas. The work on the ocean floor is done with the aid of an enclosed capsule, within which the men complete the well-head. This development also allows the rig to maintain more wells than it could otherwise.

After the exploration is complete and a field has commenced production, the next problem is transporting the product to shore. The main methods are either by tanker or pipeline. The use of tankers creates a need for a large and expensive storage capacity on the ocean floor, and increases the likelihood of pollution problems from leakage. Furthermore, if bad weather persists, tanker loadings cannot be maintained and production may be suspended.

A pipeline, on the other hand, necessitates miles of pipe being laid on the ocean floor and also represents a pollution hazard. It could also interfere with fishing trawls and other marine activities if the pipeline is not buried. For the present, a pipeline appears to be the transportation medium favored by the petroleum companies.

Of all the North Sea countries, Norway has a particularly difficult time in getting oil to shore. Due to the physiography of the Norwegian Trench and resulting pipeline construction difficulty, the logistics of getting oil and gas back to Norway are prohibitively expensive. The
only feasible solution to the problem is to send oil and gas to other countries by pipeline. In the next few years oil from the Ekofisk field is expected to go to Scotland, and gas from that field will move to West Germany.¹⁴

**Offshore Financing**

Without a doubt offshore oil and gas drilling is expensive. Despite the fact that it is more expensive to drill offshore than on the land, all the technological improvements dictated by the North Sea environment increase the cost substantially. Financing the vast undertaking is a prime concern of the big petroleum companies. In the two year period ending in 1974, up to two billion dollars was to be spent on pipelines alone.¹⁵

As of October 1974, there were thirty-six semi-submersibles operating in the North Sea costing, on the average, over ten million dollars apiece. There are thirty-five more under construction with price estimates on some of the larger ones being over thirty million dollars. This outlay of over a billion dollars for semi-submersibles represents the cost of only 71 out of 97 rigs which will be used in the North Sea area in 1976. Add in the costs of shore facilities, leases, communication equipment, and all other necessary supplies for the operation, and the cost is indeed staggering. To date, the best estimate for the costs to 1980 reaches 12.5 billion dollars.¹⁶

¹⁴*See Chapter 5 for a complete examination of the decision by Norway to send its resources to other countries.*


To raise the capital needed for the North Sea venture, two hundred and fifty companies and consortiums, representing eleven countries, are directly or indirectly involved.\textsuperscript{17} Led by the major international petroleum companies, the lease holders are continually searching for new inputs of money. As a result of the financial burden, the companies involved are borrowing heavily from banks and any other sources which will loan them the money. The peculiar situation in the financing of the North Sea oil and gas resources is exemplified by British Petroleum's financing of one North Sea field, the Forties field. The 800.5 million dollar loan from an International group of banks is secured by the oil recoverable from the field rather than by the general assets of the company which would ordinarily have been used as security.\textsuperscript{18}

Authority in Offshore Oil and Gas Exploitation

The legal authority to explore and exploit the seabed beyond territorial waters resides in the Convention on the Continental Shelf which was signed in Geneva in 1958 and came into force in 1964. It gives exclusive rights to the coastal state for exploring and exploiting the natural resources of the seabed and subsoil of the submarine areas adjacent to their coast to a depth of 200 meters or, beyond that limit to where the depth of the superadjacent waters admits exploitation.\textsuperscript{19}


In areas, such as the North Sea, where there are many opposite and adjacent countries, agreement on the boundary should be settled by the parties involved. If, however, no agreement can be reached, and unless another boundary is justified by special circumstance, the boundary will be a median line based on an equidistance principle. Since its establishment, the median line principle between adjacent countries has been rejected by the World Court. At this time, all shelf boundaries in the North Sea have been established with the exception of those of France and of Belgium.

With the Continental Shelf Convention as legal basis and the establishment of most of the shelf boundaries in the North Sea, authority over the zones resides with the coastal states. They decide leasing arrangements and legislate any and all rules governing safety, pollution, or any other aspects of offshore oil and gas exploitation. Enforcement of the laws is also the province of the coastal state. However, there has been a gradual effort by the EEC to extend its control over the shelf through rules and regulation which should be adhered to by the member countries.

As to the question regarding EEC control over continental shelf activities, the ruling was made that EEC regulations do apply to the

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20 Ibid., Article 6.

21 See Chapter 5 for a complete examination of the dispute over shelf boundaries between adjacent states and the legal decision pertaining to it. Also see, International Court of Justice, 1969 North Sea Case Judgment, The Hague.
shelf of member countries.\textsuperscript{22} Also, an earlier decision was made to regard offshore oil and gas as of internal origin for customs purposes.\textsuperscript{23} With decisions such as these the EEC has decreed that national legislation on offshore oil and gas exploitation should fall within EEC guidelines.\textsuperscript{24} Authority still lies within the coastal state but the determination by the EEC encourages similarity between all laws.

**International and Regional Perspective**

Throughout all of the sectors of the North Sea exploration is progressing. Gas has already been brought to market from the southern area, and oil is expected to be produced in quantity in 1975. What exactly the present and potential yields of oil and gas will contribute to an energy hungry Europe is subject to intense scrutiny and debate by the regional members. The oil and gas resources must be put into perspective to gain a full appreciation of their potential.

At the end of 1972 a representative of Philip's Petroleum estimated present and potential reserves. Present proven recoverable reserves in the North Sea were put at eleven billion barrels of liquids and sixty trillion cubic feet of gas, and estimated recoverable reserves


\textsuperscript{24}The EEC guideline that is applicable to the offshore areas is Article 52 of the Rome Treaty which states that restrictions on freedom of entry on nationals will be abolished. For a complete discussion on this point see Janis, p. 282.
for the North Sea were forty-two billion and one hundred and ten trillion respectively. The estimated production rate for oil was put at over 3.5 million barrels per day in the early 1980's. The North Sea oil fields are expected to last from twenty to thirty years at that rate. However, any increase in the rate of production would correspondingly decrease well life expectancy.

Rates vary, of course, within different national sectors. Approximately two-thirds of the total available or 2.4 million b/d will come from the British sector and about one-third or 970,000 b/d from the Norwegian sector. Denmark, to this date, is the only other country to have found oil in their sector in commercial quantities.

At a conference on the North Sea the magnitude of the fields was put into perspective. The present proven recoverable reserves represent only 5% of the world's oil excluding North America and the Socialist bloc countries. With these reserves included, the find is even more miniscule.

Taking Western Europe as a unit, it consumed in 1970 about eleven million barrels of oil per day with an additional two million barrels used by the British. The present estimate is that North Sea oil will

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produce 15% of the oil needed by Western Europe in 1980. The projection assures the European countries of a continued dependence on Arab oil. Considering the fact that virtually all the oil is owned by two countries, the relative position of the rest of Europe worsens. However, there are other areas in Europe where oil is also found, so the energy picture may not be as bad as indicated above.

The prospects for natural gas in Europe are much better. One hundred per cent of the projected gas consumption by four North Sea states will be satisfied by domestic sources. It must be emphasized, however, that gas satisfies only a small part of the total energy requirement of Northwestern Europe.


30 The countries expected to be self-sufficient in gas are the Netherlands, Norway, the United Kingdom, and Denmark. Found in "North Sea Most Tempting," New York Times, 20 September 1972, 65:1.
In the nineteenth century one legitimate means for the development of larger political units was the use of force. As coercion declined as an acceptable method for regional amalgamation, a variety of organizational types were instituted through which regional communication and policies could be promoted. These regional forums could serve purely as informational vehicles which facilitate the flow of communications throughout the region, or the organizations could be the means whereby significant integration is developed. Operating within the region, an organization can help the process of regionalization by focusing on needs and issues that must be solved on a regional scale. Conversely, certain issues that cannot be resolved by regional institutions could inhibit the development of regionalism. This study is primarily concerned with how a single regional factor, offshore oil and gas exploitation, effects the ongoing process of regionalization in Northwestern Europe, an area which has already embarked on a path toward the development of closer regional ties.

One important aspect of the development of regional institutions and policies is the search for theories through which to understand the processes that are taking place. This study will use parts of two of the more important theories for the development of regional integration.

31 These organizational types could be in the realm of the economic, political, defense, or other area which is of regional importance.
First is the communications approach to regionalization. This theory, as expounded by Karl Deutsch, studies transaction flows in an area in order to determine the extent and intensity of communications between political groups and units. A high level of transactions would indicate a good potential for regionalism.

The other theory is neo-functionalism whose proponents are Ernst Haas, Joseph Nye, and others. This theory examines the influence that regional economic organizations have on the development of political integration. Both theories have some similar concepts which are of practical value in this study.

The Communications Approach

Communications theory sees transactions such as trade, mail, and telephone calls as prime indicators of the presence of regional integration. For Deutsch, the primary developer of this theory, integration that is developed through these transactions would insure the attainment of institutions and practices strong enough to assure a long period of peaceful changes among its population. Regions can institutionalize this integration by the formation of an amalgamated security community in which two or more previously independent units are merged into a larger unit with a common government, or a pluralistic one which retains

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33 A security community is one in which there are real assurances that the members of the community will not fight each other physically, but will settle these disputes in some other way. Karl Deutsch, et al. p. 5.
the legal independence of separate governments.\textsuperscript{34} NATO would be an example of a security community with an integrative potential.

With the appearance of increased transactions within a region leading toward integration, specific attributes are developed upon which the maintenance of regionalism is based. The first attribute is "compatibility of major values" which are policies that are important within all partners and important in the relations between partners.\textsuperscript{35} The second is "mutual responsiveness" through which trust and acceptance of all regional members is facilitated by the ability to respond quickly and accurately to the events taking place in the region.\textsuperscript{36}

Communications theory is one of the oldest methods for studying regional integration and has been criticized by many writers. However, in some cases, the theory has proved to be viable. Within the Latin America Free Trade Association (LAFTA), a correlation has been noted in the lack of trade transactions with the failure of community structures being developed in the region.\textsuperscript{37} Also, trade and service interconnections in the East African Common Market (EACM) have held conflict among its members, particularly Kenya and Tanzania, in check. While after independence policies between the countries have diverged,

\textsuperscript{34} Ibid, p. 6.
\textsuperscript{35} Ibid, p. 123.
\textsuperscript{36} Ibid, p. 129.
the existence of economic ties and the consequent ease of communications have proved to be beneficial in ending potential disputes. The existence of transactions flows focuses attention on each other's policies and allow the members of the EACM to respond adequately to the events that threaten the organization.\textsuperscript{38} Communications theory does have practical value and is a part of several regional studies.

**Neo-Functionalism**

Traditional functionalist theory sees the world's social ills being solved, outside the spectrum of politics, by individuals working through international organizations.\textsuperscript{39} With the development of regional economic organizations, this theory was modified into neo-functionalism to systematize the events taking place in Europe in the 1950's. The theory is based on the idea that the creation of an economic union will instigate forces which will lead to political integration. Integral to this concept is the idea that if one sector of the economy, agriculture for example, is brought under regional controls then an imbalance with other sectors of the national economy will be created. This circumstance will be best resolved by bringing these other sectors under regional controls. As the pressure for institutionalization of activities on a regional scale increases, then more and more loyalty flows to the regional center as it answers the interests previously satisfied by the


\textsuperscript{39}See Ernst B. Haas, *Beyond the Nation State: Functionalism and International Organization*. 

Since this theory was first developed by Haas and others, it has come under attack because of its dependence on the European model and the problems encountered by its use in the study of other regional economic systems. In order to overcome its deficiencies in comparative studies Joseph Nye has revised the theory to make it more comprehensive. For the accurate appraisal of what is taking place in an economic region Nye developed an unwieldy complex of variables. They consist of seven process mechanisms\footnote{The process mechanisms are: functional linkage of tasks, rising transactions, deliberate linkages and coalition formation, elite socialization, regional group formation, ideological-indentitive appeal, and involvement of external actors.} and seven variables for integrative potential which were broken down further into four structural conditions and three perceptual conditions.\footnote{Within the integrative potential the structural conditions are: symmetry or economic equality of units, elite value complementarity, existence of pluralism, and capacity of member states to respond; the perceptual conditions are: perceived equity of distribution of benefits, perceived external cogency, and low visible costs. J.S. Nye, Piece in Parts, p. 86.} Within this study the structural conditions are of particular interest and will be discussed further in this paper.

Neo-functionalism has proven to be a viable theory not only in Europe but in other economic regions as well. In the organizational development of Europe, The European Coal and Steel Community was the
first sector of the regional economy to be integrated. It was followed by the sector integration of the nuclear industry within Euratom and then the EEC, a more general organization forming a regional common market in Europe. While political integration did not progress as rapidly as originally thought by the founders of neo-functionalist theory, the economic organizations in Europe do have the greatest potential for finally integrating the region. The neo-functionalist approach has also been used in the study of other regional organizations and has been able to identify the reasons why there has been success or failure in such organizations as the LAFTA,43 CACM,44 and the EACM.45

Theory and Northwestern Europe

Aspects of both neo-functionalism and communications theory have applicability to the study area of Northwestern Europe. The structural conditions necessary for regional integration will be shown in the analysis of the development of regionalism in Northwestern Europe. Both the equality of the economic units and their pluralistic nature will be demonstrated, as will complementary values and the region's ability to adapt and respond to change. When considering the ultimate effect that


offshore oil and gas exploitation will have on regionalism these con-
cepts will also be used as will communications theory. It should be
noted that the attributes of "compatibility of major values" and
"mutual responsiveness" are very similar to the structural supports of
integration in neo-functionalism and will be used interchangeably.
Finally, the regional infra-structure that has been developed in North-
western Europe through the economic and other regional organizations
will be examined to see if these structures will maintain a focus on
regionalism in Northwestern Europe.
Twice in this century Europe has been torn by war. After the first world war, no basis for good relations between the countries was established and the second war was a cataclysmic inevitability. In the years since World War II, however, a foundation was laid whereby peaceful and friendly relations among the countries of Northwestern Europe could be maintained. In essence, the rise of regionalism in Northwestern Europe is derived from a positive reaction following the destruction by war and the stark necessity for rebuilding a strong and united Europe. While there is no absolute measure for the amount of cohesion that exists in this region, it does manifest itself in a variety of easily discernible ways. Nor is regionalism stagnant; it shifts constantly in response to both internal and external pressures and events. It should be stated, though, that countries which gain some success working together will tend to continue this cooperative effort based on familiarity with and the ability to respond to each other's needs.

Background Conditions

In order for a firm and lasting basis of unity to be achieved on a regional basis certain factors common to all countries concerned should be present. This is not to say that one particular form of government, social system or set of values is needed to achieve regionalism. Nor will the presence of such similarities necessarily result in the development of regional cohesion. However, the development of a common unity and purpose is more easily achieved if there is
a lack of suspicion over one's form of social life or economic system. The fact of regionalism in Northwestern Europe is partially founded on this idea.

Northwestern Europe is an area of relative political and cultural homogeneity. All nine countries have representative political institutions based on constitutionalism and "rule of law." Five countries are constitutional monarchies with a parliament, and four are republics with a combined presidential-parliamentary system. All are pluralistic, with interest groups and numerous political parties.46

Culturally they are imbued with the western Judeo-Christian ethic. They are all urban-industrial societies; all of the countries are continuing their emphasis on industrialization, and only two countries, Norway and Ireland, have less than 50% urbanization. All of the countries are also welfare-states with concern for social services. Finally, while there are some differences between state economic control and private control, all of Northwestern Europe is involved with, and emphasizes international trade.

These background factors allow for an easier flow of information and lessen suspicion by promoting the transfer of knowledge on how each country's internal processes work. This political and cultural homogeneity encourages the development of shared major values and encourages the increased responsiveness among the individual countries. While these background conditions are not necessarily the most important

46 Within neo-functionalist theory pluralism is one of the important structural conditions necessary for integration.
aspects in the development of regionalism in Northwestern Europe since World War II, they are constant reinforcing factors in its continuation. These underlying elements of regionalism have been particularly helpful in the development and history of organizational interrelationships in Northwestern Europe.

**Co-operation Since World War II**

After the Second World War, Northwestern Europe was a shattered and broken ruin. To rise above this desolation and rebuild a stronger Europe many of the states began to join together in a variety of organizations to achieve solutions to common problems. The first intergovernmental organization in Europe was negotiated before the war ended. The customs union of Benelux, composed of Belgium, Luxembourg, and the Netherlands, reached agreement on economic cooperation in 1944 and came into existence in January 1948. This first achievement in multi-lateral cooperation became the model for other advances in European economic cohesion and signaled the start for active regional consultations on economic and security problems.

The next inter-governmental organization created in post-war Europe was the Brussels Pact of 1948, in which Britain, France, Belgium, the Netherlands, and Luxembourg each agreed to come to the aid of any of the others in the event of military attack. In 1954 Italy and Germany joined the group and its name was changed to the Western European Union (WEU). In 1949, however, the defense aspects of the alliance

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were superceded by the North Atlantic Treaty Organization (NATO). NATO was the product of the Cold War and extended across the Atlantic to include the United States and Canada.

In 1948 the original signatories of the Brussels Pact decided that cooperation was also needed in the realm of the social and economic spheres. They encouraged the creation of a European assembly which could facilitate such cooperation. In 1949 the Council of Europe was established with ten members.48

Also in 1948, in response to the Marshall Plan, the Organization for European Economic Cooperation (OEEC) was established to aid in coordinating economic recovery. In 1961 this organization was succeeded by the Organization for Economic Cooperation and Development (OECD).

The vision in founding the Council of Europe and the OEEC was to create some federal structure whereby integration of the European countries would be achieved. However, no institutions were created for this task and emphasis was placed on non-binding cooperation, not on integration. On the other hand, this lack of integrative ability spurred the search for other inter-governmental unions and led to the establishment of the European Coal and Steel Community (ECSC). In 1951 the ECSC was established with West Germany, the Netherlands, Belgium, Luxembourg, France, and Italy as members. The British were invited to attend but declined the offer. The purpose of this organization was to integrate the coal and steel sectors of the members' economies.

48 Eight additional members have been added to the Council of Europe since that time.
Associated with the establishment of the ECSC a plan for a European Defense Community (EDC) was signed in 1952. In addition to the original six, Britain was also supposed to be a member, but refused to participate at the last moment. After the EDC, created to form a European Army, a European Political Community (EPC) was also to be created to conduct a common foreign policy. However, for political reasons, the EDC was not ratified and the EPC foundered as a result.

With the failure of the EDC, the Europeans returned their attention to the economic sphere where they had gained most of their success. Seeing the sector by sector approach as the best means to achieve integration, a committee turned to the idea of creating a common structure for the control and development of nuclear energy.\(^{49}\) Then a plan for the complete merger of the economies of the members of the ECSC was proposed. The Treaty of Rome was signed on March 25, 1957, and on January 1, 1959, the EEC and Euratom came into being. Together with the ECSC, these organizations which had the same membership were bound together under the title, European Community. In response to this, the European Free Trade Association (EFTA) was established by those countries that were not asked to join the EEC.\(^{50}\) The establishment of both the EEC and the EFTA set up two opposing economic organizations in Europe; the former with the intent of merging the economies of the member countries and having a common external tariff, and the latter with no

\(^{49}\) Broad and Jarret, p. 22.

\(^{50}\) The EFTA members were Austria, Britain, Denmark, Norway, Portugal, Sweden, and Switzerland.
common external tariffs but free trade among the members. The question of external tariffs was central in the establishment of two economic organizations in Europe. The EFTA did not want them while the EEC did.

In the early Sixties the EFTA made attempts to come to terms with the EEC in order to create a single European market. The EEC, on the other hand, was reluctant to establish closer arrangements fearing that such accommodation would weaken the EEC and hurt the benefits already achieved. During the Sixties it became evident to several members of the EFTA that stronger links between the two organizations would not be forthcoming, and this situation could have serious divisive consequences for regional relations.51 As a result, Britain, Ireland, Denmark, and Norway applied for full membership in the EEC and some preliminary negotiations were made on their applications. Unfortunately, and to the detriment of regional relations, the negotiations were broken off at the request of the French.

After the rejection in 1963, British interest in the EEC increased. Both trade and investment with the continent were increasing rapidly and world events showed the need for further regional contacts. In 1966, the British government announced its intention to reapply for entry into the EEC. Norway, Ireland, and Denmark followed the British lead and many of the other EFTA members applied for associate status. However, the French again voiced their opposition to enlarging the Community and the membership applications were deferred.

With the change in government in France in 1969, the French attitude to an enlarged EEC also changed and, as a result, in 1971 meaningful negotiations on the new members ensued. In 1973 the new Community of nine was formed without Norway which refused admittance. It created a large economic unit whose combined industrial power was greater than any other unit in the world. The enlarged Community also created a situation where increased regional cohesion was institutionalized by an infrastructure that permeated Northwestern Europe.

Moreover, this increased unity did not exclude other West European states. The remaining members of the EFTA initiated negotiations so that a European market could be established through the reduction of tariffs.

The spirit and power of regionalism can be shown by Norway's relations with the EEC. Norway rejected the offer of membership in the European Community because; 1) there was disagreement with the principles of the Community's general policy; 2) There were fears over Norway losing its sovereignty; and 3) Disagreement surfaced over agricultural and fishing negotiations. Despite these problems, however, Norway opened negotiations with the EEC in 1973 to formulate a trade policy which would gradually abolish tariffs on industrial goods. The result is that Norway, even though it is not a member of the EEC, will have closer ties with the Community formalized by treaty, a fact most beneficial to the maintenance of regionalism in Northwestern Europe.

52 Norway, Royal Norwegian Ministry of Foreign Affairs, Norway and the EC, (UDA 087/74), p. 3.
The economic sphere is not the only area where a base level of regionalism has been created. The realm of regional defense has also fostered communication and closer ties within the area. The main vehicle for this has been the North Atlantic Treaty Organization (NATO). While not purely European in character, NATO has, for the most part, succeeded in increasing regional relations.

NATO is a military alliance that is highly integrated having a distinct division of responsibility filtering down from the North Atlantic Council and the Secretary-General of NATO. It has no supranational characteristics and all major policies must be unanimously agreed upon by the member countries. It has little direct decision-making authority and serves more as a ratifier of policies advanced by its members. NATO was formed in 1949 for the express purpose of the military security of its members and the direction of common policies toward particular external enemies. In the original formation of NATO the Soviet Union was seen as the greatest potential threat to the organization's security.

As the immediate Soviet threat subsided and world attention moved to co-existence between the superpowers NATO served, at one time or another, as a means for fostering European integration and for developing an Atlantic community. In fact, NATO has been touted as being the cornerstone for the evolution of the European organizational system.

During the twenty-six years of its existence NATO has been a very active organization but its principal policy functions are more consultative than creative, more communicative than innovative, and
tended to be more peripheral than central to the diverse concerns of the members. However, this lack of definitive policy-making power is not totally detrimental. The structure of the alliance has promoted a high degree of contact between the members and has allowed for communication and responsiveness to be developed throughout Europe. The fact that NATO is one forum where all of Northwestern Europe can meet and exchange views on one important regional question, defense, ensures the ability of the region to retain contacts that will lead Northwestern Europe to heightened regionalism.

The role that NATO has played in Europe has been neither smooth nor steady. Serious questions have been raised over the viability that NATO has today and the actions of some of its members underscore the need to revitalize its regional functions. Interestingly enough, this question of its continuing role as a regional institution helps cohesion because it keeps communications circulating throughout the area. For the time being, then, NATO, along with the other organizational structures in Northwestern Europe, will serve to sustain regionalism in the area.

Further Regional Factors

The growth of inter-governmental organizations in Northwestern Europe are an important indicator of regionalism in the area. This participation is not only regional, but is also with the whole world community. In terms of participation in intergovernmental organizations

the top four in the world are France, the United Kingdom, Belgium, and West Germany. Eight of the nine countries in Northwestern Europe are in the top thirteen. The only country not in this top group is Ireland. However, these rankings do not reflect the fact that Ireland is now a member of the EEC and could, as a result, rise in the rankings. Regionally, there are fourteen inter-governmental organizations (see Table 1) in Northwestern Europe and all the countries are heavily represented. Belgium is the leader with membership in thirteen of the fourteen groups and Norway and Ireland are the lowest, belonging to nine organizations. Finally regional organizational membership is not limited to the government level. There are 272 non-governmental groups associated with the EEC. Contact thus permeates throughout the political and economic structure of Northwestern Europe.

Another important manifestation of regionalism is the economic interdependence of Northwestern Europe (see Tables 2 and 3). In terms of both imports and exports, a large percentage of the trade is intra-regional. Intra-regional trade as a percentage of total foreign trade is lowest in the United Kingdom with 32% imports and 31% exports. The Netherlands leads with 68% of their exports being within the region. Only Norway and the United Kingdom have their largest trade volume with a country outside Northwestern Europe. In fact the

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54 1972 Yearbook of International Organizations, Table 12.

### TABLE 1
MEMBERSHIP IN EUROPEAN ORGANIZATIONS

<table>
<thead>
<tr>
<th>Country</th>
<th>ECAC</th>
<th>OECD</th>
<th>ECMT</th>
<th>CCC</th>
<th>Council of Europe</th>
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1 ECAC European Civil Aviation Conference  
2 OECD Organization for Economic Cooperation and Development  
3 ECMT European Conference of Ministers of Transport  
4 CCC Customs Cooperation Council  
5 NATO North Atlantic Treaty Organization  
6 CERN European Council for Nuclear Research  

## TABLE 1—Continued

**MEMBERSHIP IN EUROPEAN ORGANIZATIONS**

<table>
<thead>
<tr>
<th></th>
<th>WEU⁷</th>
<th>ECSC⁸</th>
<th>EEC⁹</th>
<th>EURATOM⁰</th>
<th>Rhine Comm.</th>
<th>Nordic Council</th>
<th>BENELUX¹¹</th>
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</table>

⁷ WEU: Western European Union

⁸ ECSC: European Coal and Steel Community

⁹ EEC: European Economic Community

¹⁰ EURATOM: European Atomic Energy Community

¹¹ BENELUX: Belgium, Netherlands, and Luxembourg
## TABLE 2

**LEADING TRADE PARTNERS**
*(Ranked in Terms of Total Foreign Trade)*

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<tr>
<td><strong>Imports 1964</strong></td>
<td>58%</td>
<td>55%</td>
<td>36%</td>
<td>38%</td>
<td>66%</td>
<td>58%</td>
<td>46%</td>
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<tr>
<td></td>
<td>58%</td>
<td>55%</td>
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<td>66%</td>
<td>58%</td>
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<td>22%</td>
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<td>48</td>
<td>44</td>
<td>46</td>
<td>70</td>
<td>57</td>
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<td>-7</td>
<td>+8</td>
<td>+8</td>
<td>+4</td>
<td>-1</td>
<td>-2</td>
<td>+10</td>
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<tr>
<td><strong>Exports 1964</strong></td>
<td>66%</td>
<td>53%</td>
<td>39%</td>
<td>38%</td>
<td>82%</td>
<td>64%</td>
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</table>

United States is the only major trade partner of these countries that is not in Western Europe.  

The level of regionalism that does exist in Northwestern Europe has arrived after a great deal of effort. Further efforts in cooperation and a further rise in regional consciousness will, however, involve more sacrifices of national interest for the regional good. Much of the existing level of regionalism, while it has not come easily, has occurred because shared benefits have accrued to all, and very little had to be sacrificed. For regionalism to increase, the countries of Northwestern Europe must be responsive to each other's needs, and must be willing to relinquish some narrow national policies for the benefit of the whole region. The oil and gas resources in the North Sea are an important area where the needs and interests of different countries must be reconciled before further cohesion will result.

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56 The heavy reliance of Northwestern Europe on intra-regional trade shows the basic economic equality of the members. An important structural condition for integration in neo-functionalist theory.
Chapter 5

REGIONAL CO-OPERATION IN THE NORTH SEA

With the exploration for and the exploitation of oil and gas in the North Sea increasing at a feverish rate, the littoral countries of the North Sea have achieved some measure of progress in international co-operation. In the realm of continental shelf boundary delimitation, bringing resources to shore, and pollution agreements, progress has been made and it has benefited many of the countries in Northwestern Europe. This co-operation has facilitated some rise in regionalism by increasing the countries' abilities to find solutions to problems confronting all of them. Unfortunately, this co-operation has not led as yet to any concrete measures for a regional approach to offshore oil and gas production. Each country is following its own path and precepts toward efficient exploitation of its own resources. Despite this fact, the co-operation to date is an important first step toward achieving some regional consensus on the direction that exploitation should take. The less divisive problems that face a region must be solved before negotiations on other, more difficult, aspects can ensue.

Boundary Delimitation

The first, and most important, step in any co-operative effort on oil and gas exploitation would appear to be the delimitation of continental shelf boundaries between the countries involved (see map 2). In order to avoid any disputes over who actually owns the oil, agreement must be made on an equitable apportionment of the continental shelf, based on international law. The importance of this delimitation
and the acrimonious disputes that can result are shown by the fact that in only two semi-enclosed seas in the world have the interested states agreed on common shelf boundaries. The North Sea is one of the areas.\(^{57}\)

As stated earlier in this paper the Continental Shelf Convention gives authority to the coastal state to control exclusive rights for exploring and exploiting natural resources adjacent to its coast to a depth of 200 metres or, beyond that limit, to where the depth of the superadjacent waters admits to the exploitation of the natural resources of the area.\(^{58}\) In areas of the world where opposite or adjacent states have the same continental shelf, the boundary was to be divided by negotiation, or by a median line unless special circumstances were involved. Article 6 says:\(^{59}\)

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baseline from which the breadth of the territorial sea of each State is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baseline from which the breadth of the territorial sea of each State is measured.

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\(^{57}\)The Persian Gulf being the other area where agreement has been reached on most of the boundaries.

\(^{58}\)United Nations, Convention on the Continental Shelf, Article 2.

\(^{59}\)Ibid, Article 6.
The countries in the North Sea that have ratified or are bound by this convention and to whom Article 6 applies are the United Kingdom, Denmark, Norway, the Netherlands, and France with reservations. All the boundaries have been agreed upon with the exception of those of Belgium and of France.

Both France and Belgium have reasons for not formalizing their continental shelf boundaries. Belgium has a dispute with the Netherlands over who owns a coastal channel and until this problem is legally solved, no continental shelf boundaries can be established. The primary problem with the French boundary is the position that the Channel Islands will play in the boundary delimitation. The French have conceded that the Channel Islands should be administered by the British but refuse to have a median line drawn based on the position of these islands. France feels that a boundary drawn on this basis would give a disproportionate share of the shelf to the British. However, there are no active disputes over the boundaries of either France or Belgium and no serious problems are extant in the North Sea from this lack of agreement.

The first major boundary agreement was between the United Kingdom and Norway. The success of this agreement was particularly important when considering the geological structure called the Norwegian Trench. This Trench is much deeper than the 200 metres allowed for in the Shelf Convention and could have been construed by the British as the end of the Norwegian shelf. However, the decision was made to delimit the boundary on a straight median line basis and this resolved what could have been a serious dispute. The importance of this treaty was emphasized when the first major oil field was found in the Norwegian
sector of the continental shelf but on the British side of the Trench. In a similar manner the United Kingdom made boundary agreements with the Netherlands and Denmark. Furthermore, median line boundaries were established between Norway and Denmark and between Denmark and the Netherlands. Agreements were also made between the Federal Republic of Germany and both Denmark and the Netherlands on the boundaries immediately adjacent to the coastal areas. However, no solution could be reached on the continental shelf boundaries and, by common consent, the countries submitted their grievance to the International Court of Justice for judicial decree.

**The North Sea Continental Shelf Cases**

In 1967 Denmark, the Netherlands, and the Federal Republic of Germany asked the Court to decide the question of what principles and rules of international law are applicable to the delimitation of the continental shelf between the parties involved.\(^{60}\) On behalf of the Government of the Federal Republic of Germany it was submitted that the equidistance method for delimiting boundaries is not a rule of customary international law and therefore is not applicable as such between the parties.\(^{61}\) The submission goes on to say that the equidistance method cannot find applicability because it does not apportion a just and equitable share to the Federal Republic of Germany.\(^{62}\) Both

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\(^{61}\) Ibid, p. 8, article 2.

\(^{62}\) Ibid, p. 8, article 4.
the Netherlands and Denmark in their reply, state that article 6 paragraph 2 of the Continental Shelf Convention is a rule of international law and delimitation of the shelf in the North Sea is governed by it, and that since special circumstances have not been established the boundary should be based on the equidistance principle. 63

In the judgment handed down by the International Court of Justice on February 20, 1969, the plea by Denmark and the Netherlands was rejected. The majority opinion in each case was: 64

(A) The use of the equidistance method of delimitation not being obligatory as between the Parties; and
(B) There being no other single method of delimitation the use of which is in all circumstances obligatory;
(C) The principles and rules of international law applicable to the delimitation as between the Parties of the areas of the continental shelf in the North Sea which appertain to each of them beyond the partial boundary determined by the agreement of 1 December 1964 and 9 June 1965, respectively, are as follows:

(1) delimitation is to be effected by agreement in accordance with equitable principles, and taking account of all the relevant circumstances, in such a way as to leave as much as possible to each party all those parts of the continental shelf that constitute a natural prolongation of its land territory into and under the sea, without encroachment on the natural prolongation of the land territory of the other. (Italics added)

(2) if, in the application of the preceding sub-paragraph, the delimitation leaves to the Parties areas that overlap, these are to be divided between them in agreed proportions or, failing agreement, equally, unless they decide on a regime of joint jurisdiction, user or exploitation for the zones of overlap or any parts of them;

(D) In the course of the negotiations, the factors to be taken into account are to include:

63 Ibid, pp. 11-12.
64 Ibid, pp. 54-55.
(1) The general configuration of the coasts of the Parties, as well as the presence of any special or unusual features;
(2) so far as known or readily ascertainable, the physical or geological structure, and natural resources, of the continental shelf areas involved;
(3) the element of a reasonable degree of proportionality, which a delimitation carried out in accordance with equitable principles ought to bring about between the extent of the continental shelf are appertaining to the coastal State and the length of its coast measured in the general direction of the coastline, account being taken for this purpose of the effects, actual or prospective, of any other continental shelf delimitation between adjacent States in the same region.

The Court also stated that the parties are under an obligation so to conduct themselves that the negotiations are meaningful, which will not be the case when either of them insist upon its own position without any modification of that position.65 As a result of this judgment the parties negotiated their shelf boundaries and signed agreements in 1971. The boundaries were based partially on equidistance and partially on negotiated points. New treaties were then signed by all these countries with the United Kingdom in light of their own agreements.

The significance of the North Sea Cases was threefold: first, it rejected the equidistance principle as a rule of customary international law which means that all international sea boundaries between adjacent states will be decided by negotiation and not on equidistance, unless both parties agree to that principle. Second, it reinforces the regionalism of Northwestern Europe by demonstrating that the countries are interested in a peaceful resolution of their conflicts.

based on law and equity. Finally, the judgment took into consideration the fact of subsea resources that may cross shelf boundaries and discussed the idea of "unity of deposits."

The Concept of "Unitization" in Subsea Resources

In paragraph 97 of the ICJ judgment on the North Sea Continental Shelf Cases it was stated that, "Another factor to be taken into consideration in the delimitation of areas of continental shelf as between adjacent States is the unity of any deposits." In reference to hydrocarbon deposits this factor is very important. The geological structure is such that the fields could be wastefully exploited on either side of the boundary line and one or more states could be deprived of the eventual benefits. In the treaty agreed upon by the Federal Republic of Germany with both Denmark and the Netherlands an article was added to achieve solutions to this potential problem. In many of the other treaties on boundary delimitation in the North Sea the parties also addressed themselves to the eventuality of resources crossing the boundaries.

In the shelf agreement with both Norway and Denmark the United Kingdom allowed for the possibility of shared petroleum fields and made provisions for reaching agreement on the apportionment of the proceeds derived. Article 4 of the United Kingdom-Norway treaty typifies

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66 Ibid, p. 52.
MAP 3
AREAS COVERED BY
BOUNDARY AGREEMENTS

SOURCE: BRITANICA
the arrangements made. 67 It states:

If any single geological petroleum structure or petroleum field, or any single geological structure or field of any other mineral deposit including sand or gravel, extends across the dividing line and the part of such structure or field which is situated on one side of the dividing line is exploitable, wholly or in part, from the other side of the dividing line, the Contracting parties shall seek to reach agreement as to the exploitation of such structure or field.

The major problem with this type of agreement is that it does not set up any concrete method by which any dispute can be rectified. This is shown by the fact that Norway and the United Kingdom are having problems over the Frigg gas field 68 and other fields that cross national seabed boundaries.

The agreements between the Federal Republic of Germany and both the Netherlands and Denmark are better because they provide for arbitration in case of dispute. However, some writers have noted several problems associated with the agreement. 69 Articles 2 of both treaties are very similar. Article 2 of the treaty between the Federal Republic of Germany and Denmark states in part: 70


68 The principle area of dispute between Norway and Britain is compensation for the Norwegian concessionaire who is five years behind the British in drilling.

69 For a discussion on some of the problems with resources that cross seabed boundaries, see L.F.E. Goldie, "The North Sea Continental Shelf Cases: A Postscript," New York Law Forum XVII (Fall 1973), pp. 415-17.

70 Ibid, Appendix I, p. 424.
(1) Should mineral resources be discovered on the continental shelf of either contracting party and should the other contracting party consider that the deposit thus discovered extend to its own continental shelf, it may put forward its view to other contracting party, together with the supporting data. If that other Contracting party does not share this view, the arbitral tribunal provided for under Article 5 of the present Treaty shall find on this question at the request of either Contracting party.

(2) Should the Contracting Parties agree or should the arbitral tribunal have found that the deposit is located on the continental shelf of both Contracting Parties, the Governments of the Contracting Parties shall reach agreement as to its exploitation, taking into account the interests of both Contracting Parties on the principle that each Contracting Party is entitled to the mineral resources located on its continental shelf. In the event that mineral resources have already been extracted from the field which crosses the dividing line, the agreement should contain provisions regarding adequate compensation.

There are three problems with this agreement. First, it does not call upon the parties involved to bargain in good faith; second, no express provision for conciliation prior to arbitration is provided; and finally, while it does provide for compensation to the aggrieved party, it does not call for a just apportionment of both the costs and the proceeds from exploiting the resources. This provision is, however, included in the treaty on "Single Geological Structures" between the United Kingdom and the Netherlands which is probably the most enlightened agreement in Northwestern Europe on resources that cross national shelf boundaries.

The agreement on "Single Geological Structures Extending Across the Dividing Line on the Continental Shelf Under the North Sea" could

be a model for other agreements on the North Sea. Approved as a second treaty in addition to the treaty dividing the continental shelf between the United Kingdom and the Netherlands, it provides an objective and necessary solution to this most pressing problem.

**Articles 1 and 2 of the Treaty state:**

(1) If any single geological mineral oil or natural gas structure or field extends across the dividing line and the part of such structure or field which is situated on either side of the dividing line is exploitable, wholly or in part, from the other side of the dividing line, the Contracting Parties will seek to reach agreement as to the manner in which the structure or field shall be most effectively exploited and the manner in which the costs and proceeds relating thereto shall be apportioned, after having invited the licensees concerned, if any, to submit agreed proposals to this effect.

(2) When a structure or field referred to in Article 1 of this agreement is such that failure to reach agreement between the Contracting Parties would prevent maximum ultimate recovery of the deposit or lead to unnecessary competitive drilling, then any question upon which the Contracting Parties are unable to agree concerning the manner in which the costs and proceeds relating thereto shall be apportioned, shall, at the request of either Contracting Party, be referred to a single Arbitrator to be jointly appointed by the Contracting Parties. The decision of the Arbitrator shall be binding upon the Contracting Parties.

These guidelines, while not perfect, will allow for a more efficient exploitation of any hydrocarbons found in common. It also shows that

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one state could act as the "agent" for all the countries involved with costs and benefits being equitably apportioned. Unfortunately, the Treaty has never been tested.

The boundary delimitation in the North Sea is a classic case of international co-operation and will serve to heighten regionalism in Northwestern Europe. The spirit of community throughout this endeavor is shown by the fact that Denmark has retained some attractive drilling areas in what is now the German Sector of the Continental shelf. Moreover, companies which were granted licenses in areas that were claimed by the Netherlands and then awarded to Germany were given the opportunity to reapply for rights under German jurisdiction. While many problems over the boundaries could appear in the future, to date the efforts on this front have fairly successful in increasing regionalism in Northwestern Europe.

North Sea Pollution and Resource Agreements

The only multi-lateral agreement in the North Sea, other than fisheries, which involves all the littoral states is an agreement on pollution. The signatories of the "Agreement for Cooperation in


Dealing with Pollution of the North Sea by Oil are Norway, Denmark, the Netherlands, the Federal Republic of Germany, Belgium, France, the United Kingdom, and Sweden. The Treaty came into force in 1969. The agreement provides for all the participating countries, within their own zones, to be responsible for detection of pollution and to notify the concerned members if the oil were to move into the other members' zones. This Treaty was a step towards the development of a comprehensive pollution policy. What needs to be developed next is a regional program for minimum pollution standards, with enforcement and penalties binding on all members.

Another area in which cooperative efforts in the North Sea are pronounced is in bringing exploited resources to shore.

In terms of getting its resources to shore, the most disadvantaged country in the North Sea is Norway. Because of the Norwegian Trench there is no continuous continental shelf upon which to lay a pipeline. Since virtually all oil and gas resources found to date are on the shelf areas away from Norway the problem extant takes on increased significance. With the fact that pipelines from the oil fields directly to Norway are not technologically feasible the only means of getting the resources to shore is by tanker. However, this method is slow and inefficient due to the necessity of having an expensive storage capacity for oil on the continental shelf, and because disruption of tanker loadings can result from sustained bad weather. The result

of this dilemma has been the decision of Norway to send its resources to other North Sea countries by pipeline, a decision aided by the co-operation of the United Kingdom and the Federal Republic of Germany.

On April 7, 1972, a committee was appointed by Royal Decree in Norway to clarify the conditions for landing petroleum in the United Kingdom. Later this committee was also requested to take up negotiation with the Federal Republic of Germany on the same subject.77 The points of particular interest were: which state had control over taxation of capital and income, which state's laws had applicability to the pipeline, and whether there would be any obstacle to the returning of petroleum to Norway.78

In the negotiations among the three countries the following points were agreed upon: 1) Pipeline companies which own or operate pipelines shall be registered in Norway. 2) Norwegian safety regulations and pollution liability rules will apply. 3) The transport tariff for Norwegian produced petroleum will be subject to approval by Norway. 4) Connection of pipelines from other fields is subject to Norwegian approval and Norwegian oil will have first priority. 5) Norway will tax the pipeline over its entire length.79 In addition West Germany

78 Ibid, p. 29.
agreed that Norway could tax 1) installations connected to the pipeline on the Continental Shelf such as monitoring and compressor stations, and 2) installations at the landing point used to measure, store, and stabilize the transported product or where NGL is separated from the crude oil. Processes such as refining are not included in this agreement.  

The United Kingdom initially agreed to substantially the same tax arrangement as West Germany except to the taxing of facilities used to separate the NGL from the crude oil. This roadblock has been rectified, however, and an oil pipeline to the United Kingdom is scheduled for completion in early 1975. A gas pipeline to West Germany will be completed a few years later. This spirit of international cooperation, as in all the other co-operative efforts mentioned, has aided all the countries participating in the endeavor and has allowed the process of regionalization to continue in Northwestern Europe.

Further Centripetal Factors in the North Sea

While not directly associated with oil and gas exploitation other activities in the sea, particularly oceanographic research and fisheries, promote co-operation among the countries of Northwestern Europe. These communal efforts can create a spillover effect into those aspects of regional relations concerned with the offshore oil and gas enterprise and help to develop regional cohesion on this important front.

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One of the most visible areas where regional cooperation and policies are apparent is in fisheries. All of Northwestern Europe has fishing interests in the North Sea and the countries have come together on several occasions to participate in regional organizations designed to regulate fisheries. Principally, these agreements recognize the depletion of fish resources as a major problem in the area, and thus the members of the region sign multi-lateral agreements under which the signatory powers accept equal restriction on their fishery efforts.

The first regulatory commission that was established, the Permanent Commission, was primarily concerned with the regulation of the mesh of fishing nets and the size limits of fish. The major problem of the Commission, however, was its inability to transfer its authority to other areas of fishery regulations.

Due to this problem the Commission was re-organized in 1963 into the Northeast Atlantic Fisheries Commission (NEAFC). This new commission was designed to promote the conservation of fishery stocks throughout its member territories and to provide for international inspection of regulation enforcement. These commissions were not scientific bodies and got their information from the International Council for the Exploration of the Sea (ICES). However, since the

82 Alexander, Offshore Geography of Northwestern Europe, p. 97.
84 For a discussion on the ICES, see p. 61.
function of the NEAFC is regulatory, it encourages communication and regional cooperation through the development of common policies for the conservation of fishery resources.

These attempts at harmonizing fishery policies in Northwestern Europe have also been promoted through the actions of the EEC. In the process of uniting the Community members economically, the EEC has developed common fishery policies for its members. While there were some problems in deciding on the type of policy which should be developed, the Council of Ministers finally adopted several regulations which would establish a common structure for the fishing sector and a common market for fish products. Both came into effect on February 1, 1971. Central to this plan was equal access to all fishing waters of the members which were formerly off limits. In some cases the members were allowed to keep three miles exclusively for their use for up to five years, but after that period all waters would be open for fishing. When the three new members were admitted into the EEC they also came under this regulation. In their case, however, they were allowed to protect a six mile fisheries limit for a ten year transitional period. These efforts by the EEC in coordinating national fishery policy and bringing it under a regional orientation has proved to be a significant aspect of regionalism in the North Sea.

The area of oceanographic research has also proved to be a unifying force in Northwestern Europe. The International Council for the Exploration of the Sea (ICES) is a regional organization which promotes

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85Janis, pp. 280-281.
cooperation on scientific research, particularly on living resources, among its member countries. In the study of fishery stocks and currents, as well as in many other aspects of oceanographic research, they investigate marine phenomena for the benefit of its members. The information thus acquired through the ICES promotes regional cohesion because all the states of Northwestern Europe have a vested interest in cooperating to get this valuable information. The work of the ICES led to the treaties for conservation of fishery resources in Northwestern Europe by emphasizing the effect that intensive fishing has on fishery stocks. Information acquired through the ICES on other aspects of the North Sea could be used in offshore oil and gas exploitation.

Oceanographic research has also been promoted by NATO. NATO has attempted to give further impetus to cooperation among member states by concentrating on studies on the marine environment and pollution.\(^86\) The members have declared their intention to end the discharge of oil waste into the sea and have moved to minimize accidental spills.\(^87\) Furthermore, NATO also seeks to maintain freedom of navigation in the seas and has promoted common policies on that aspect of ocean use. So then, beside the cohesive aspect that NATO has a defense alliance, it also promotes regionalism in Northwestern Europe by focusing communal attention on a variety of non-military, sea-related activities.

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\(^{87}\) Ibid, p. 17.
Finally, one pervasive economic element in the world today should be mentioned as a centripetal force in Northwestern Europe. This element is the role that a multi-national corporation plays in the region. The multi-national corporation is a product of the developed countries, principally the United States and Europe. It facilitates the movement of goods across national boundaries and binds the region in a common economic bond. In fact, these corporations have become such important economic units that the wellbeing of the countries in which they are incorporated is dependent on the corporate success of these multi-national giants. Moreover, not only is the multi-national corporation an important element in itself but it is also joining with other large corporations into consortia which will have the ability to finance the expensive undertaking in the North Sea.

A perfect example of the inter-relationships that the multi-national corporation develops among the states in the North Sea is the activities of the Shell Group. Not only is this giant combine made up of two companies, one in Britain and one in the Netherlands, it also owns, directly or indirectly, companies involved in various branches of the oil, natural gas, chemical, and metals business in over 100 countries. On a regional scale it holds assets in all nine countries of Northwestern Europe many of which are involved with oil and gas efforts in the North Sea. The Shell Group has major holdings in the Norwegian, British, and Danish sectors of the North Sea and

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also works with other major multi-national corporations to finance these fields.

What is created is a web of business and financial interests which tie all of Northwestern Europe together. With international business being the lifeblood of the region the inter-relationships of these multi-national corporations exert a powerful unifying effect in Northwestern Europe. They encourage the countries to develop common policies which would be conducive for an efficient exploitation of the sea and increase communication within the area on both a corporate and national scale. The multi-national corporation, as well as all the other centripetal forces in the North Sea, serve as a promoter for regionalism in the area and encourages the interdependence of all the countries in Northwestern Europe.
Chapter 6

CENTRIFUGAL FORCES IN THE NORTH SEA

The co-operative efforts in the North Sea have been important for the continuation of regionalization in Northwestern Europe. The boundary delimitation, as well as the pollution and resource agreements, have allowed the littoral states of the North Sea to create closer ties and mutual respect for each other. These results cannot be minimized.

However, they are continually being threatened by divisive forces in the area which could destroy all beneficial achievements to date. Conflict in the uses of the sea, variations in national laws and regulations, and the different national timetables for production and conservation of resources can, alone or in concert, create tensions which could undermine regional cohesion. The maintenance of good relations in Northwestern Europe and a promulgation of regionalism will rest in the ability of the concerned parties to assess the significance of the problems confronting them, and obtain rapid and equitable solutions for all.

Conflict in the Uses of the Sea

Historically, the North Sea is an area of excellent fishing potential and is heavily used for sea transport. Some of the world’s busiest ports have their access routes through the North Sea. Among them are Antwerp, London, and Rotterdam (the busiest port in the world). In 1971, 45,961 sea going ships of 247.7 million gross tons entered
the Netherland's ports alone.89 About 300,000 ships a year pass through the Strait of Dover.90

Fishing is also very profitable, with an estimated annual catch from the North Sea of 3.5 million tons.91 With the advent of oil and gas exploitation in the area, the newcomer has rivaled the other uses of the sea for space and potential conflicts have appeared.

While conflicts in the sea could take several forms, the one most appropriate to oil and gas exploitation is "conflicts between different uses of the same space."92 This idea emphasizes the physical fact that no two objects can occupy the same space at any point in time. It is relevant to the discussion because the establishment of drilling rigs in "recognized sea lanes" or in traditional fishing grounds could endanger the safety and profitability of these enterprises. Not only are the rigs a possible danger, but pipelines could also cause the loss of nets or anchors for ships involved with other sea occupations. At the moment there are no definite conflicts

91In Table 1, from J.A. Gulland, ed., The Fish Resources of the Oceans, FAO Fisheries Technical Paper No. 97 (Rome: Food and Agriculture Organization of the United Nations, 1970).
in the North Sea because oil and gas exploitation is still in the early stages. As early as 1967, however, there had been over 50 collisions between ships and oil installations in the Gulf of Mexico, a fact which could, in the long run, prove significant for Northwestern Europe.

The relevant section concerned with subsea exploitation and other uses of the sea is found in the *Convention on the Continental Shelf*. Article 5(1) states:

> The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing, or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intent of open publication.

Article 5(2) also sets up safety zones around all installations used for subsea exploration and production. All countries which have ratified or acceded to this convention are supposed to abide by these rules.

In respect to transportation, there are two ways to avoid conflicts in ocean space: Traffic separation schemes and the fairway system. Traffic separation areas comprise a central safety zone with one way traffic lanes on either side of it. This scheme is more appropriate for the prevention of collisions between ships. There is one recommended for the Strait of Dover and there is a four-part scheme proposed for the North Sea which has not been instituted yet.

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93 Ibid, p. 73.

The primary international organization that deals with traffic separation in the Inter-governmental Maritime Consultative Organization (IMCO). It recognizes that there is a great danger to shipping from congestion in major shipping routes and that regulations should be instituted to prevent collisions between ships. These recommendations are not binding on the members but IMCO has recommended that its member countries make it an offense for ships of their flag to proceed against established flows in traffic separation schemes. IMCO has done a great deal of work on the question of traffic safety and has also proposed several resolutions on the establishment of fairways in offshore exploration areas and for dissemination of information on the location of oil and gas facilities.

The fairway system is noted more for its installation in the Gulf of Mexico and was designed with the conflict between ships and oil installations in mind. The idea is that there are lanes or fairways where ships can travel through oil fields and where oil rigs cannot be established. Under this system, however, there are several problems extant: 1) Many ships do not pay attention to the fairways because it makes their trips longer. 2) Fishing boats cannot stay within fairways

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because the nature of the industry forces them to follow the fish.

3) As drilling proceeds farther out into the sea, fairways have not been established or lengthened to take this fact into account.97 This last point is the most important because much of the drilling in the North Sea is more than 100 miles out to sea and the fairway system has yet to be tried this far from land.

Shipping faces another important problem in the North Sea, the possibility of artificial islands being established in the sea, especially as a part of the offshore oil and gas effort. The possible establishment of these islands creates potential dangers to both shipping and fishing and could seriously conflict with the interests of the other states in the region. In international law, as embodied in the 1958 Geneva Convention on the Law of the Sea, an artificial island could be considered as an installation necessary for the exploration and exploitation of the continental shelf.98 As long as the island does not unjustifiably interfere with the other uses of the sea it would be permitted. Furthermore, under the Convention on the High Seas, an artificial island could be regarded as a reasonable use of the high sea and would be proper by law.99

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98 Convention on the Continental Shelf, Article 5 subparagraph 2.

The conflict in reference to artificial islands has, then, two elements: 1) The physical conflict in the sea between islands used in oil and gas exploitation and other uses of the sea, particularly shipping and fishing; and 2) the legal conflict engendered by the interpretation of the reasonable use clause and the right to establish facilities in the sea relating to the exploitation of the continental shelf as permitting the establishment of artificial islands. The physical conflict is imminent with the plans of the Netherlands to construct an artificial island off its coast. The area involved is in the vicinity of major coastal shipping routes and an island's presence could prove disastrous for both shipping and the artificial island. If shipping and fisheries operations are hampered by the presence of the Dutch artificial island or any other one that might be constructed, action would probably be taken by the other states using the North Sea to protect their own interests.

This action would probably be judicial in nature. The legality of these islands in international law is somewhat tenuous and a determination would have to be made on whether an artificial island constitutes a reasonable use of the sea and whether it is a necessary part of continental shelf exploitation. Adjudication on these points would necessarily result in some bad feelings. If the state which constructed the island loses, then a great deal of time and resources have been wasted and offshore production might not be as efficient as with the artificial island. On the other hand, if the shipping and fishing interests lose, then a permanent impediment to their activities has been formalized. At any rate, the existence of artificial islands
in the North Sea would not serve as a benefit to regionalism in Northwestern Europe unless some regional accommodation is made among all the interests in the sea.

Coupled with the establishment of artificial islands and with the offshore effort in general is the increased danger of oil pollution which could effect fisheries, coastal areas, and other sea-related activities. Pollution can be caused by a blow-out at the well-head, in transhipment to land by tanker or pipeline, or by the collision of ships with oil and gas installations. While the danger of a major spill is slight, a major oil spill originating from oil fields in the central part of the North Sea would, due to wind movements, move toward the Danish peninsula and parts of Norway.100 This fact demonstrates the international consequences of a major oil spill and its importance as a possible centrifugal force in Northwestern Europe.

With fisheries the problems are slightly different. The establishment of an oil installation and safety zone could close off a traditionally rich fishing area. In such areas fish could also be killed from exploration activities such as explosions. It is also not clear what effect exploration and development activities have on outright destruction or reduction of spawning in the fisheries.101

100United States Congress, North Sea Oil and Gas: Impact of Development on the Coastal Zone, Committee on Commerce, (93rd Congress, 2nd Session, Committee Print, p. 21.

Pipelines could also endanger the fishing industry through loss of nets or other equipment when they snag on the ocean bottom. Finally, the fishing industry, dependent on ports in proximity to the oil fields, could be hurt because the fleets cannot cope with the higher docking charges and other expenses caused by the presence of the oil industry.

The conflicts in the uses of the North Sea are very real. The fact that a drilling rig was established on Dogger Bank, a prime fishing area, as early as 1965 demonstrates that definite means to rectify any, and all, conflicts in the sea must be established. The disputes that could arise between states intent on pursuing offshore oil and gas and those staying with the more traditional uses of the sea could initiate repercussions which could mean a decline of regionalism in Northwestern Europe.

**National Legal and Fiscal Variations in the North Sea**

Throughout Northwestern Europe there are wide variations in laws and operating rules for those people involved with the offshore oil and gas industry. This multiplicity of regulations results in confusion, inefficiency, and, possibly, conflict. The lack of any common pollution standards with enforcement provisions or safety codes can endanger not only the people working on the offshore effort but also the wellbeing of every person in the littoral states of the North Sea.

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who depend on it. International law does not require any common standards and all laws are within the province of the coastal state. This fact allows the countries of Northwestern Europe to establish common operating codes for the North Sea and its environs which could increase regionalism in the area. However, there are, at present, no active negotiations in progress for the rectification of these differences.

The extreme variability in legal and fiscal legislation can first be shown by the types of laws used by the countries of Northwestern Europe. Four countries, West Germany, the Netherlands, Norway, and the United Kingdom, have special laws governing offshore mining. Belgium, France, and Ireland have general mining laws that are applicable except when superceded by a special law. Denmark has only a general law covering all mining and Luxembourg has no mining laws at all. The content of these laws also shows acute differences. In Belgium virtually all aspects of offshore mining are subject to negotiation while Norway has seven separate and specific pieces of legislation concerning offshore exploitation.

To avoid a detailed examination of all the countries in Northwestern Europe involved with offshore oil and gas, a brief summary of the legal and fiscal standards of four countries will be given. The Netherlands, Norway, the United Kingdom, and Denmark have been selected because they have, at this time, the greatest potential for offshore oil and gas. They also have ratified or acceded to the Continental Shelf Convention.
In Denmark all exploration and production licenses are granted by royal decree. In both cases there is no fixed area covered by the grants. In actuality, the exploration and production concessions are granted simultaneously for a total duration of 50 years. There are no taxes or fees for exploration rights and the companies will pay taxes on the well-head value of production from territorial waters at 7.5% for the first five years and 12.5% thereafter. From the shelf, production royalties are 5% for five years and 8% thereafter. The Danish system is unusual because three Danish companies were granted all rights in the offshore area, by royal decree, for the before mentioned, 50 years.

The Netherlands has different requirements for those parties interested in shelf exploration. There is no discrimination against foreign companies except that those companies establish a local office where the accounts are kept. Exploration rights are granted by the Minister for Economic Affairs with production rights usually given to exploration lease holders. There is also a non-exclusive reconnaissance license for which the holder pays a flat sum for each square kilometer explored. Exploration license holders pay a series of bonuses and surface taxes throughout the fifteen years they hold these licenses. Block size varies and there is a 50% reduction on size after ten

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103 Unless otherwise noted all information comes from the OECD, Mining and Fiscal Legislation, Paris: OECD, Tables VII, VIII, X, XI, XII, XIV, XIX, XXI, XXII, XXV, XXVII, AND XXIX.

104 In oil and gas activities the area, in acres or kilometers, that the company receives under one concession is called a block. A company can own one or more blocks.
years. An applicant may win rights for production after demonstrating
the success of his exploration, and a license is granted for forty
years. Within the legal regulations established by the Dutch there is
a progressive royalty on production ranging from 0% to 16%. There is
also a profit sharing scheme where the state receives 50% of net prof-
its after an extra deduction of 10% for operating costs. Corporate
taxes are deducted from the state's profit share.105 For non-compliance
with mining regulations, including pollution standards, the Continental
Shelf Mining Act provides for a maximum of six months imprisonment and
a fine not exceeding f. 10,000. Repeated violations may lead to with-
drawal of the license.106 Through 1972, 45 exploratory permits were
granted as well as 1 production license.

Norway's shelf regulations were first established in 1965 and
then changed in 1972. In Norway, exploration rights are granted by
the Minister of Industry to citizens or companies incorporated domes-
tically or, under "special circumstances," they could be given to
foreign companies. Reconnaissance licenses are granted for 3 years in
the area below 62 degrees North Latitude for an annual fee. Production
rights are for six years and can be renewed for thirty more. The block
is reduced by a half after six years and by one-quarter three years
later. However, no block can be smaller than 100 square kilometers.
In 1965 all taxes on capital and income were subject to general

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105 The Netherlands, Dutch Ministry of Economic Affairs, Mining

106 Ibid, p. 17.
legislative provisions with an average royalty of 12½% on production. In 1972 the laws were changed so that the state could acquire a large share of the profits coming from the North Sea oil and gas deposits. The establishment of a State oil company with majority participation in any offshore venture assured Norway of greater control over production of the resources. In the new bill there is a series of taxes and fees, as well as a graduated royalty from 8 to 16%. The licensee is also required to land all production in Norway unless the King, upon application, approves some other landing point. The King may decide, however, that the licensee return production equal to national demand to Norway.\textsuperscript{107} The Norwegians have also established extensive safety regulations governing the conduct of offshore activities. Unfortunately, this law does not establish actual liability or punitive measure for pollution or other damage caused by subsea mining. Through 1972, 18 exploration permits and 36 production licenses were granted.

The United Kingdom was the twenty-second nation to ratify the Continental Shelf Convention which brought it into force. In the United Kingdom only citizens or companies incorporated in Britain may hold offshore licenses. There is also preferential treatment given in the granting of the licenses to the companies that have contributed the most to the development of Britain's fuel needs. A non-exclusive

\textsuperscript{107}Norway, Royal Ministry of Industry and Handicrafts, "Royal Decree of 8 December 1972 Relating to Exploration for and Exploitation of Petroleum in the Seabed and Substrata of the Norwegian Continental Shelf," in Legislation Concerning the Norwegian Continental Shelf, Unofficial Translation (Oslo, 1973), Section 34.
exploration permit for the whole British shelf except the area under production license is granted for three years. There is both a registration fee and other taxes which must be paid by the exploring company. A production permit is for six years with one renewal for forty years. The holder can have up to ten blocks of various sizes and they need not be contiguous. There is a ban against resale of blocks. There is also a 12.5% tax on well-head production and a series of other registration fees and surface taxes.

The New Labour government is now trying to change the Continental Shelf laws to increase government participation and income. They seem to feel that too much of the profits are leaving the country, which could be put to work in the United Kingdom. Under the new plan, 1) additional taxes would be imposed on company profits, 2) future licenses would have majority participation by the government, 3) existing licenses would be renegotiated so the state has majority participation, 4) the British National Oil Corporation (BNOC) would be set up to exercise participatory rights, and 5) further control over physical production and pipelines will be acquired for conservation purposes. 108

The Labor government also proposes extensive changes in the tax laws so that the exchequer will gain its appropriate income from the North Sea resources.

At this time the United Kingdom also has what is probably the stiffest oil pollution standard in Northwestern Europe. The

"Prevention of Oil Pollution Law of 1971" requires that anyone who causes pollution as a result of carrying out activities on the Continental Shelf will be subject to a fine not exceeding $125,000. However, the fine will not be imposed if the person responsible proves that pollution was not due to any want of reasonable care and that all reasonable steps were taken for stopping or reducing it. 109

Governmental Behavior and Production Timetables

The extreme variability of laws and regulations governing offshore oil and gas exploitation is a product of the attitudes that the respective countries have taken on the offshore oil and gas resources. The United Kingdom drew up its laws so as to obtain the fastest possible exploitation of the resources for its energy needs. Norway, on the other hand, constructed its laws to control and minimize its production because of the domestic problems rapid exploitation would cause. The diverse nature of the production timetables and the failure of other countries in Northwestern Europe to appreciate the reasons behind the timetables could result in divisive tendencies which could inhibit regionalism. The potential dispute is a three-sided affair which could prove disastrous for Northwestern Europe in the long run. In an area that is as sensitive as the energy problems facing the region today, any one of these disputes could effectively negate all previous regionalism stemming from cooperative ventures related to other activities in the North Sea.

The first aspect of this possible conflict is between the European Community and the national policies of specific member countries. While this dispute has not surfaced as yet there is a very real possibility that it will appear in the next ten years. The greatest potential for conflict is between the United Kingdom and the Community. It will center around pre-emptive rights of the Community for energy resources.

The objective of the United Kingdom is to exploit its offshore resources as quickly as possible. The oil and gas is seen as a way to end a deficit of $6 billion which is primarily the result of heavy reliance on foreign oil.\textsuperscript{110} The ending of this dependence is of paramount importance to Britain because of the economic instability caused by such a large deficit. The official prediction now is, allowing for new discoveries, for production in 1980 to be equivalent to demand.\textsuperscript{111} The theory also is that at the point when Britain becomes self-sufficient in oil she will no longer be competing for Middle-East oil and at the point when she becomes a net exporter of oil, other nations will be less dependent on Middle-East oil.\textsuperscript{112} This idea is the same for natural gas and such a scenario points out

\textsuperscript{110}"Uncertainty Delays North Sea Oil," Boston Globe, 13 December 1974, p. 29.


that the United Kingdom wants to exploit its own oil and gas for its own benefit, leaving the leftovers for the rest of Europe or whomever might want to purchase it.

The European Community for its part seems to take a different view and would like to see more of a community approach to the development of North Sea oil and gas resources that goes beyond the previous EEC rulings. In a speech to a conference on the North Sea by Fernand Spaak, Euratom Director, reference was made to the Community interest in the North Sea. He states:

"The states affected should wish to maximize benefit. But if the common objective is secure supplies of energy, then maximum consideration should be given to the Community as a whole. The Community should formulate a common energy policy in such a manner that it makes the greatest contribution to the North Sea oil and gas resources for the balanced benefit of all concerned—regions, industry, and energy consumers." (Italics added)

Spaak also commented:

"We also believe it would be in the interest of the Community as a whole and perhaps also consistent with the rules of the Common Market that, if pre-emptive rights are to exist, they should be in favor of the Community rather than in favor of any nation state.

The view of at least some influential members of the European Community is that the oil and gas in the North Sea should be common property and that first rights to the oil would not be given to the member state that originally owned the oil. This view would run

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afoul of the expressed British opinion that the resources are theirs and the reserves will solve a particularly British problem.\textsuperscript{115} If the Community view prevails then fierce pressure will be exerted on its present structure because of British dissatisfaction and possible withdrawal from the Community.

The circumstances that are setting Norway apart from the rest of Northwestern Europe are much different than the problems facing the United Kingdom and the EC. Norway is not a member of the Community and does not have to worry about giving up sovereignty over their oil and gas resources. In this case the area of dispute is Norway's avowed policy of slow and gradual exploration and production of oil which seems to "condemn Europe to continued oil dependency on member states of the Organization of Petroleum Exporting Countries."\textsuperscript{116} Again regionalism in Northwestern Europe is threatened because there is a lack of appreciation among the states in the region for the problems and needs of other countries.

The Norwegians have specific national priorities and have set up their policies on the North Sea oil and gas resources with the domestic situation in mind. In terms of population, Norway is a small country with only 4 million people. It is endowed with large amounts of

\textsuperscript{115}British is now a member of the energy sharing plan of the oil consuming nations. However, British attitude toward this plan may be changed when they become self-sufficient in oil. The change could be that the United Kingdom would be reluctant to share their oil and, as a result, drop out of the organization.

hydroelectric power, which has meant that Norway has not become highly
dependent on either oil or gas as an energy source. By 1981 Norway
is expected to earn about $3 billion a year from their oil and gas
exports, but the economy can only absorb about $1.1 billion.\textsuperscript{117}
Besides the fact that Norway cannot use all the money it is expected
to earn from the North Sea projects, there are severe strains being
placed on its economy from the offshore industry. Unemployment has
never been a problem in Norway and the increased employment needs of
the petroleum industry have created severe sector imbalances with many
employees leaving small fishing, agriculture, or industrial concerns
to take jobs connected with oil.\textsuperscript{118} The specter of inflation resulting
from the large injection of oil money into the economy is also a
persistent worry which, in the long run, may prove to be the most
critical problem of the Norwegian government.

To combat the problems of prosperity brought by the North Sea
resources the Norwegian government has put severe limitations on the
oil industry. As shown earlier they demand participation in all
projects on the continental shelf, have allowed no drilling or
exploratory work above 62 degree North Latitude, and have opened up
only 25\% of the area below this line for leasing. Moreover, they will
now take up to 80\% of all profits derived from commercial oil and gas

\textsuperscript{117}Norway Seeks Ways to Absorb Oil Funds Without Discomfort," 

\textsuperscript{118}"Oil Income Brings Problems to Venezuela and Norway," \textit{New
fields ending what they saw as huge oil company profits. All these efforts to insulate Norway from the worst problems of oil and gas exploitation have ramifications for the rest of Northwestern Europe. It is the new attitude and perception of itself as an oil exporter (as opposed to an importer) which appears to set Norway apart from the rest of the region and to suggest adverse consequences on regionalism.

In September 1974 negotiations were in progress to construct a pact whereby the oil-importing nations of Europe, the United States and Japan would share their oil resources in case of a new Arab oil embargo. Norway was expected to be a participant in this agreement. During the negotiations, however, an informal source said that the Norwegian government was, "considering a neutral position between OPEC and the consumers." The final result was the refusal of Norway to join the oil sharing program of the International Energy Agency, the oil consumer group. The country's position is that the agency is for importers and Norway will soon be an oil exporter. By this position the government of Norway has set itself apart from the rest of Northwestern Europe and has indicated that, in reference to the North Sea oil and gas, their country is different and will essentially pursue policies which are contrary to the rest of the region.


120 "Oslo Go-Slow Policy Casts Pall on Oil Fair," p. 61.
Chapter 7

THE POTENTIAL FOR REGIONALISM IN NORTHWESTERN EUROPE

In the two preceding chapters the forces for and against regionalism have been examined. Both co-operation and divisiveness are present. The more powerful and influential of the two will ultimately determine the exact role that offshore oil and gas exploitation will play in the development of a regional consciousness. If co-operation is a strong and viable force, then the ongoing process of regionalization will be promoted. If conflict is the stronger, then a setback will be dealt to those wanting a stronger regionalism. Any potential for the development of a special regime in the North Sea will be based on which force is the most pervasive.

Significance of Centripetal Forces

The various areas in which co-operation in the North Sea has advanced show that bilateral and multilateral efforts can result in benefits being achieved by all the parties involved. A spirit of regional co-operation should result in heightened regionalism based on successful experiences shared by all. Familiarity diminishes suspicion and a series of beneficial negotiations can create a framework which should be the basis for further regional consensus. However, a critical examination of the co-operative efforts in the North Sea leaves open to question the extent to which regionalism in Northwestern Europe has actually been increased.
The "Agreement to Prevent Pollution of the North Sea by Oil"\textsuperscript{121} is a prime example of what actually has been gained through international negotiation. What, on the surface, may look to be an important step toward solving the pollution problems created by oil is, in actuality, an empty agreement which does not appreciably advance either the control of pollution or regional co-operative efforts. The agreement does not set any preventive standards. It does not require penalties for violators of pollution codes; and it does not set down, even in principle, that a common standard is either needed or desired. The requirement that the participating nations notify other signatories that oil pollution exists and request help if needed, is an idea that is not particularly significant. Any establishment of pollution standards and enforcement is still the province of the coastal state and it does not seem evident that the state will soon give up its sovereign right to legislate pollution codes, even if a common standard would be for the regional good.

The resource agreements among Norway, the United Kingdom, and the Federal Republic of Germany are a much better example of regional co-operation.\textsuperscript{122} Both Britain and West Germany have given up to Norway some taxation rights on facilities which process hydrocarbons from the Norwegian oil and gas fields. They also relinquished the right to enforce their laws on the pipelines and installations built on their continental shelf used for transporting Norway's oil and gas. In

\textsuperscript{121}See chapter 5, pp. 56-57.

\textsuperscript{122}See chapter 5, pp. 57-59.
this case Norwegian law and its enforcement provisions were applicable. It must be emphasized, though, that Norway's decision to send her oil by way of other countries was based solely on necessity. Although the Norwegian government would have preferred that the resources be landed in its own country, it was not technologically feasible to build a pipeline to Norway. The inefficiency of other transport methods, principally tanker, can be demonstrated by the fact that production from the Ekofish fields declined in 1973 because bad weather hampered tanker loadings.\textsuperscript{123} The United Kingdom and West Germany, for their part, were willing to make some concessions; since the oil and gas is to be landed in their countries, they would probably have the first opportunity to buy the production that was not returned to Norway.

Many international agreements are based on necessity and mutual advantage, not on choice. This fact is important in the development of regionalism and should not be minimized. Cohesion has been promoted by the negotiation of these agreements. When other events occur in the North Sea that also require cooperation, regionalism will again be helped.

As stated earlier, the delimitation of boundaries in the North Sea was probably the most significant part of the cooperative efforts to date, and that the North Sea is one of the two sea regions in the world where this delimitation has taken place. There must be a differentiation made, however, between 1) the regional significance

of the process of which negotiations of the boundaries are a part, and 2) the actual meaning of legal sea boundaries in a regional context. The fact that negotiations actually took place and a solution was reached to a potentially divisive issue (disputes over the ownership of the oil and gas) demonstrates an increase in intraregional contacts and a willingness to peacefully solve problems affecting everyone. Moreover, the respect for law as a basis for regionalism was promoted by the willingness of certain parties to submit their boundary disagreements to the International Court for adjudication. In this sense the boundary delimitation in the North Sea has helped the process of regionalization; but, with the legal recognition of continental shelf boundaries, the very nature of boundaries constitutes a force which is not sympathetic to the idea of regionalism.

The study of boundaries and their function is an old and respected part of political geography. Ladis Kristoff in his article on the "Nature of Frontiers and Boundaries\textsuperscript{124} makes several comments on boundaries which have significance to this study. The first is that boundaries are inner-oriented and maintained by the will of the central government.\textsuperscript{125} Kristoff also sees boundaries as a separating factor which impedes integration across the borderline.\textsuperscript{126} With these ideas


\textsuperscript{125}Ibid, p. 272.

\textsuperscript{126}Ibid, p. 273.
the boundaries in the North Sea, despite being created by international agreement, are actually a separating factor reinforcing the power of the individual states rather than that of the region. Sea boundaries extend state control to a larger area and reduce the necessity for, and desirability of, reaching an agreement on regional needs. As the continental shelf is apportioned among the littoral states, problems which were traditionally communal are now assigned to individual states.

Boundaries in the sea promulgate the multiplicity of laws in the sea, limiting cohesion. If the sea could once be called a frontier with the integrating factor of mutual penetration and sway, then the formal acceptance of shelf boundaries limits interaction. In the years from 1965 to 1971 a high level of communication throughout the region was maintained because of negotiations on boundaries. Since then, with the formal acceptance of most boundaries, a decline in inter-governmental activity associated with North Sea oil and gas resources can be noted.

With the decline of inter-governmental activity on North Sea oil and gas exploitation, the development of complementary values and the ability to respond and adapt to changes stemming from the North

128 Through 1971, all boundary agreements, the pollution agreements, EEC decrees on the Continental Shelf, and most of the resource agreements were made.
Sea have been temporarily checked. For regionalism to be maintained and increased, communication throughout the region must occur. Responses to value changes can only be developed if the flow of information among the regional partners is continued at a fairly steady rate. However, the low level of governmental communication at this time does not necessarily negate the regional benefits that have been achieved.

All the centripetal factors that have been considered may not, in themselves, represent a significant increase in regional cohesion; but taken together with the regional fishing arrangements, the common oceanographic interests of Northwestern Europe, and the non-governmental influence of the multi-national corporations, a permanent reservoir of forces for North Sea regionalism has been developed. Fisheries and scientific research are organizational interests which will continue to focus regional attention on the North Sea. The problems of research and fishery stock depletion are of area-wide concern and agreements will be made to protect common needs. The multi-national corporation working in the North Sea will always be a non-governmental influence with the economic power to help mold governmental policies on a regional level and assure themselves that disputes do not hurt their own interests in the North Sea. Finally, it will be to the advantage of the other organizational interests in

129 Within both neo-functionalism and communications theory the structural support for integration are complementary values and responsiveness. The establishment and maintenance of these supports are an important aspect of regionalism. See Chapter 3.
the North Sea, particularly the EEC, to lobby for a regional solution for the North Sea because it will help reinforce its own interests for the progressive integration of the area. While, to date, regionalism in Northwestern Europe may not have been increased by the communal efforts in the North Sea there has been developed a basic structure for continued regionalism which will not be easily destroyed and a foundation from which common values and responsiveness can be developed.

**Importance of Divisive Factors in the North Sea**

After examining the significance of those efforts which purport to increase regionalism one must then examine how important the potentially divisive forces in the North Sea are in retarding the process of regionalization. Conflict in the uses of the sea, variations in national operating rules, as well as different national policies and production timetables could create friction which would break down any regional consensus. The important factor here, though, is whether some or any of the littoral states perceive these centrifugal forces as actual problems worthy of regional debate.

Conflicts in the uses of the sea is one such area where the concern shown by the academic community and the relatively few people who are directly affected is not reflected at the governmental level. Calls for a tribunal to solve these conflicts between oil and gas exploitation and other uses of the sea130 have not met with any success.

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130 Richard Young, p. 522.
Furthermore, no concrete vehicles have been created to determine what actually constitutes "unjustifiable interference" and to debate the merits of oil and gas exploitation versus fishing or transport in certain areas of the sea. One of the few countries which has actually legislated any concern for the effect that oil and gas exploration has on other sea uses is the Netherlands which requires that when explosives are used in seismic work, they must be supervised by a fishing expert.

If there is any debate on conflict in the uses of the sea it is not on an international scale but rather internal, between different segments of the national population. In Scotland, for example, it has been reported that the fishing fleets have moved from Aberdeen to other, lower cost, ports. The fishermen could not cope with the higher costs resulting from competition over port facilities.

Fishermen are also unhappy over the safety zones being placed around offshore installations which close off fishing areas. A further problem is the debris which has been scattered on the ocean floor as a result of seabed exploitation. While the oil companies have assumed liability for damage to fishing gear the incidence of debris makes it impossible to detect if the gear is lost on a pipeline or other

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131 Convention on the Continental Shelf, Article 5(1) requires that shelf exploitation shall not result in any "unjustifiable interference in the uses of the sea." See chapter 6, pp. 66-67 for further elaboration.


133 United States, Congress, p. 17.
equipment related to oil and gas activities or just junk. In the latter case the oil companies take no responsibility and no compensation is forthcoming.\textsuperscript{134} In the future, as oil activities multiply in the North Sea, the littoral states may take a more active interest in the conflicts arising from multiple uses of the sea. At present, however, it is not thought to be a major regional problem worthy of active consideration.

The problems created by the multiplicity of national legislation and operating rules in the North Sea are different in scope and focus. With the formal division of the seabed by treaty the sovereignty and applicability of the coastal state's laws become finalized. Despite the EEC's determination that the continental shelf is covered by Article 52 of the Rome Treaty requiring free entry for member states,\textsuperscript{135} laws have not changed in the last several years to harmonize this aspect of shelf activity. The desirability of at least a common pollution and safety standard has been recognized by some people in the region.\textsuperscript{136} However, it does not appear that the member states of the EEC are in a hurry to implement community decrees, much less to willingly commit themselves to a single set of criteria for the totality of North Sea operations.

\textsuperscript{134}Ibid, p. 20

\textsuperscript{135}See footnote 23 above on p. 20.

Harmonized operating rules in the North Sea would provide two benefits: 1) A more efficient exploitation of the North Sea resources because the participating concerns would construct all facilities to meet a common code instead of changing methods to meet the requirements of eight different nations. 2) Protection for the coastal state from oil spills created by the lax standards of one country and a speeding up of clean-up activities because all nations in the region would be required to help, not just the few directly affected. Unfortunately, it might take a disaster on the scale of the spill in the Santa Barbara channel in California or the recent tanker spill near Singapore to spur the nations of Northwestern Europe to action. In fact, complacency might have already set in because the North Sea has, so far, been remarkably free from any major oil spills resulting from the offshore activities. Even the Torrey Canyon tanker spill had a minimum coastal impact and did not greatly alarm the region. Because the nations of Northwestern Europe have not been troubled by the problems of diverse laws in the sea they do not see any problems which could cause regional friction.

However, both the conflict in the uses of the sea and the lack of harmony on operating codes in the North Sea are a possible threat to regionalism. Even though the littoral states do not, as yet, see them as difficulties they are a potentially divisive force for the future. If a major oil spill does occur because of lax operating codes it will affect everyone and could develop into a point of contention throughout the region. Furthermore, a severe decline in fishery catch or interference with shipping interests of the region could engender
disputes between the offshore oil producing states and the other states. This fact represents a viable threat to the future of regionalism in Northwestern Europe and it will be interesting to see if the existing supports for regionalism will recognize these issues and take steps to prevent them from occurring.

For the moment, the greatest threat to regionalism in Northwestern Europe is the behavior of the nations in respect to their production timetables for the North Sea. The avowed goal of the Norwegians is to limit production, leave large areas of their continental shelf unexplored and demand a large state participation in order to acquire the maximum amount of revenue from the offshore enterprise. The nation has set policies which meet their perceived domestic and international necessities. They also feel that they can contribute to the energy needs of the region. However, it will be done on their terms. The rest of Northwestern Europe is, admittedly, very unhappy over the policies of Norway. They feel that the Norwegians should put more emphasis on the regional energy problems. Beneath this budding attack on regionalism is a change in values as well as a lack of appreciation and responsiveness to the needs of the different countries of Northwestern Europe.

Shared Values and Responsiveness in Northwestern Europe

Earlier in this paper a discussion was presented on Deutsch's

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137 See Chapter 3. The similarity between the two aspects of communication to be mentioned and two structural supports of neofunctionalism has already been stated. See p.
communication theory, which identified two major factors which are necessary in the development of regional cohesion. The two factors were "compatibility of major values" and "mutual responsiveness." Such major values as constitutionalism were demonstrated in the development of a base level for regionalism. Responsiveness was something developed so that countries in the region could predict each other's behavior and act accordingly. It is these two vital necessities within the development of regionalism which have the potential of breaking down in Northwestern Europe.

Major values are designated as values of major importance in the politics of the units concerned. This means that no value will be considered important in the relations between political units unless it is important within each of them, and is also considered important in their common relationships. In today's political environment one's energy situation and whether one is a "consuming" or "producing" nation now connotes a value not previously considered as such. In an era of energy shortages and embargoes a country's energy picture is of vital importance to its domestic needs as well as a part of its international political and economic relations. If a region has solely energy producers or consumers, this value produces an affinity for regional relations. However, if one or more country changes this value then a different set of tensions is created.

Norway, while not a heavy importer of energy, was heretofore an energy consumer, importing all its petroleum needs. Using an "energy"

138Karl Deutsch, et. al., p. 123.
value they were tied to the problems, needs, and values of the rest of Northwestern Europe. Now their values are changing. It has been reported that Norway, as a net exporter of oil, will have interests in common with the traditional producer countries. The government therefore expects to establish closer contacts and co-operation with these countries, i.e. with the member nations of OPEC. This change in values and the movement of Norway from a consuming to a producing nation will inhibit any extensive regionalism for the North Sea. It might not result in any severe decline in regional relations, but it will certainly create suspicion and mistrust of Norway's policies with a possible spillover into other areas of contact.

Coupled with the change of values and its consequences, is a lack of responsiveness in the area to the changes that are taking place. The thirty years of peaceful co-operation and exchange of idea should have created a foundation whereby this change of values in the region would be met by conciliation, negotiation, and the willingness to compromise. All parties in Northwestern Europe have failed in this regard. Norway has embarked on a path of conservation and the limiting of its production which may be a very intelligent policy; it could, in the long run, actually be beneficial for the region. However, she has failed to appreciate the immediate consequences of her policy and the appearance that she is working against the best interests of Northwestern Europe.

ways and could not indefinitely continue policies which are at odds with the region. Not only is Norway integrated into the regional economy by trade but the resource agreements have also shown that it is dependent on other countries in the area for the landing of its energy resources. Furthermore, the recent trade agreement which has been negotiated between Norway and the EEC for the progressive abolition of tariffs indicate that Norway is increasingly becoming a permanent fixture in the regional economic structure.

The fact that Norway is so much a part of the region is important on two levels: 1) The regional infrastructure of which Norway is a member will, in the future, generate the communication needed for the adaptation of responses to the needs of the whole region; and 2) regionalization in the North Sea will not progress without the vital presence of Norway. For the present, regionalism is not continuing by means of the oil and gas exploitation in the North Sea. There are definite problems that need to be overcome by the littoral states. However, in the future, the existing interdependence of Northwestern Europe will encourage the development of answers to the questions that have arisen.
CONCLUSIONS AND PROPOSALS

When this study was initiated its intent was to discover the forces emanating from the North Sea which would increase or retard regionalism in Northwestern Europe. These forces flow throughout the region exerting pressures either for further regionalism or against the cohesion that already exists. Since then, it has become evident that, for the moment, the fact of North Sea oil and gas exploitation has created more problems for regional relations that it has solved. If these resources were discovered many years ago, then the problems would not have been as acute. Unfortunately, the tremendous price increases of hydrocarbons has fostered extreme sensitivity to energy related policies. This sensitivity has resulted in a temporary suspension in the development of regionalism while individual states search for an appropriate energy program and determine what role the North Sea resources will play in this program.

Both the policies of the United Kingdom and Norway can be seen in this light. They are promoting courses of action which best suit their own domestic needs. Norway limits production and exploration because she wants to conserve the resources for as long as possible. The United Kingdom's intention is to exploit her resources as rapidly as possible to eliminate the deficit in its balance of payments and cure its chronic economic ills. As these countries develop their own perceptions on the uses of North Sea oil and gas and implement them as national policy the promulgation of a regional scheme for the North Sea is made more difficult.
Problems of the North Sea

Given the different policies of Norway, the United Kingdom, and other countries in Northwestern Europe, the cause of regionalism in the area has not been significantly increased. It was originally felt that the process of regionalization would be helped by North Sea oil and gas exploitation. It was hypothesized\(^{141}\) that the high cost of imported oil and the fact that oil and gas were found in the North Sea would benefit regionalism. This would have come about through the damage to the regional economy by the present high cost of oil that would force Northwestern Europe to come together to share and manage the energy resources found within the region.

This hypothesis has proven to be false. There are four reasons why this has been so:

1) The discovery of oil and gas in the North Sea has restructured major values in the region. Norway's new perception of herself as an "energy producer" and what this value means, both domestically and internationally, has set her apart from the rest of the region. This new value has loosened cohesion in the area and has made the possibility of a regional agreement being arrived at for the North Sea much more difficult to achieve.

2) The nations of Northwestern Europe have not been responsive to this change in values and, as a result, have not created a method whereby all regional members could adapt to the changes that are occurring. This fact may be a microcosm of world events in general;

\(^{141}\)See Chapter 1, p. 11.
the producing and the consuming nations have not reached any firm understanding of each other's needs and problems.

3) The important organizational vehicles in Northwestern Europe, which is the basis for regionalism, have not, as yet, succeeded in promoting any definitive regional programs directed toward the North Sea oil and gas resources. Furthermore, neither the EEC, because Norway is not a member, nor any other regional organization has succeeded in bringing together all of the states in Northwestern Europe with the intention of ameliorating national policy conflicts.

4) While the whole process of negotiation on continental shelf boundaries in the North Sea has proven to be beneficial for intra-regional contact and understanding, the formal acceptance of the boundaries have tended to limit the littoral state's view of the North Sea. With the individual coastal states being solely responsible for the activities on their continental shelves, these states do not see the shelf as a regional entity. Rather the states see their jurisdictional zones as separate from the others and an area subject to their own particular laws and regulations. This fact has encouraged the state to see such problems as conflict in the uses of the sea as national problems, not regional ones.

Due to the above four factors, regionalism in the North Sea has not been promoted. In fact, if some accommodation is not made to the new forces that do exist in the region there is a possibility of a decline in the existing level of regionalism. At the very least, regional cohesion will tend to remain static during the next several years.
However, there is, in several areas, pressure in Northwestern Europe for the development of a regional consensus on the North Sea. 1) Continued conflict in the uses of the sea will eventually focus regional concern on the offshore oil and gas and encourage the area to develop a program whereby the development of the offshore resources will blend in with the other, traditional uses of the sea instead of competing against them for space. 2) The possibility of accelerated environmental deterioration stemming from increased offshore production will necessitate policies that will minimize oil pollution, a danger to all littoral North Sea States; and 3) The economics of North Sea oil and gas production will require regional agreement for the sharing of facilities and the harmonization of laws so that those people involved in the offshore enterprise will be able to develop the oil and gas fields as rationally, efficiently, and inexpensively as possible.

Finally, there is pressure for a solution on the North Sea from the whole political and economic infrastructure in Northwestern Europe which fosters regional integration. Despite the temporary halt in the development of regionalism it has already been shown that there is a firm basis for regionalism in Northwestern Europe and the structural supports for this cohesion permeates throughout the area. These supports, as manifested in regional organizations and economic interdependence, will continue to serve as a focal point for regionalism and eventually bring the region together for the development of a special regime in the North Sea.
The regime may not be, as originally proposed, a supra-national one, but some sort of intraregional commission will eventually be set up to act as a focal point on regional compromise. A determination on the role that the North Sea and its continental shelf resources will play in Northwestern Europe will be made in order for disputes to be minimized and regionalism maintained.

A Regime for the North Sea

With the North Sea being the focus of intense activity and subject to pressure for some regional management scheme, a model should be proposed upon which a future regime could be based. This regime will not provide any easy solutions for the regional problems of Northwestern Europe, and any actual regime of similar content would be attained only by hard and prolonged negotiations.

The following are nine points which would set up a regime for the North Sea oil and gas resources, and provide for an efficient management and utilization of the resources.

1) A commission, composed of every state in Northwestern Europe, would be set up to administer the continental shelf of the region. Policy inputs by the member countries should be allowed, but no overt external control should be put on the commission.

2) The area to be covered by this regime would be focused on the North Sea, but should include all shelf areas which are divided among member nations. The commission should also have authority over

\[142\text{See hypothesis 2, p. 11.}\]
the development in the coastal zones of the member nations which are used for continental shelf activity.

3) The commission should be empowered to make policy on all aspects of offshore oil and gas exploitation and other activities on the continental shelf. The central authority will determine leasing arrangements, taxes fees, and royalties, as well as such operation codes as safety and pollution standards. Companies applying for concessions must be incorporated in the region and the commission should require that it have majority participation in all production efforts.

4) A regional company should be set up to exercise participatory rights and to insure that excess profits are not leaving the region.

5) The commission should establish regulations so that oil and gas exploitation does not interfere with the other uses of the sea.

6) Production should be apportioned throughout the region on the basis of need.

7) After all costs of the commission are deducted, the profits from the offshore enterprise should be distributed in the region based on the oil and gas contribution that was made. The previous shelf boundary lines would be used to determine which country contributed what percentage of the resources. If a member country contributes no income from the offshore enterprise it will pay a flat fee to help defray the costs of the commission.

143 Under this idea, if the United Kingdom contributed 100% of the resources they would get 100% of the profits. If Britain contributed 50% and Norway 30% they would get 50% and 30% respectively with the remaining profits distributed accordingly.
The rest of the region, for its part, has also not been responsive, first to the needs of Norway and second to the long run implication of her policies. The rest of Northwestern Europe does have some legitimate complaints, but it has not, as yet, instituted any means whereby these complaints could be harmonized with the needs of Norway. A breakdown in communication within the region over energy policies seems to be the cause of the decline in a responsiveness that has previously been developed in the area.

The decline of responsiveness in Northwestern Europe could result in a new form of regionalism in the area. This new form would be among the EEC members and it would exclude Norway from active regional consultations. Even as of today the members of the EEC have reaffirmed their intentions to transform, before the end of the Seventies, the whole complex of their relations into a European union. The EEC has ambitious plans for a complete economic and monetary union, and a common energy policy under consideration, as well as having already developed North Sea programs on fisheries and on the continental shelf. All these activities present a picture of regionalism apart from Norway.

Despite this potential for Norway's disappearance from regionalism, it is felt that ultimately an accommodation will be made between the EEC members and Norway. In Northwestern Europe there has been developed a whole infrastructure of economic, political, and strategic interdependencies. Norway is tied into these regional structures in many

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140 Great Britain, British Membership of the European Community, p. 37.
8) A judicial body would be set up as a part of the commission to solve all legal issues connected with the continental shelf enterprise. All member states, individuals, or companies would have recourse to this court. Countries outside the region would also be able to register legal complaints.

9) The guiding philosophy of the commission should not be the most rapid exploitation of the resources but, rather, the optimal exploitation, for the greatest benefit of the region, for the longest period of time.

Unfortunately, the operation of such a regime would have many attendant problems. Despite the previously mentioned pressure for the development of this commission, serious opposition to its initiation will be encountered on several fronts.

The first objection would be from the coastal states, because they would have to give up a measure of sovereignty in order for the commission to work efficiently. To renounce control over the use and distribution of resources that a state previously owned could be viewed as a serious affront to its rights as a nation and would be opposed. An energy hungry Europe might also oppose a rational exploitation and opt for the most rapid production possible to alleviate their energy problems. Furthermore, both the states contributing the majority of the resources and the states using the oil and gas might feel that they are giving up more than they are receiving. The producer states would feel that they are contributing too much to the maintenance of the commission and not getting a good enough return. On the other hand, the user states could feel that they are
paying both for the commission and the resources and, for that reason are not achieving any real economic benefits.

The second area of opposition would come from the companies that are exploiting the North Sea. While a unified set of operating rules for the North Sea would be supported, the offshore industries would be very reluctant to accept strict production controls and commission majority participation which would minimize profits. In such a case many fields would be declared uncommercial and valuable production would not come to market. This fact is exemplified by recent events in the United Kingdom where the oil companies claim that some oil reserves will not be commercial if the British Government institutes policies which limit company profits. 144

Finally, opposition would be encountered from some of the previously institutionalized organizational interests, particularly the EEC. Any commission that is established now would preclude EEC control because Norway is not a member. However, the economic influence of the EEC might be impaired by this new commission and would be opposed in order to prevent the erosion of its own powerful influence.

Any commission for the North Sea would have to be established in light of these oppositional forces. In order for it to maintain its own independent integrity and function with a minimum of constraints it must have supra-national characteristics that are above the direct control of its member states. It should have at least four functioning

bodies which would provide adequate direction and also protect diverse regional interests. The highest, decision-making body would be a secretariat made up of people agreed upon by the member states, but who have no direct links to any particular state or interest group. Second would be a group of ministers representing the members. This body would agree upon and recommend policies for the commission which could then be rejected or amended by the secretariat. To protect member interests, a unanimous rejection of a program by the council of ministers would be binding on the secretariat. A third body would be a congress composed of business, financial, labor, political, and other interests which could develop programs for the commission and provide information for the secretariat. The fourth body would be the court whose members would also have no direct national links.

In the operation of this four part commission, liaison relations would have to be established with the other fishery, oceanographic, and economic organizations in the region. These relations would ensure that all programs for the North Sea oil and gas resources would be in harmony with all other programs and serve to negate any severe conflicts of interest and the usurpation of functions previously enjoyed by other regional groups. A commission for the North Sea continental shelf resources designed with the above recommendations in mind would allow for the most efficient exploitation of the North Sea, with the least friction, for the balanced benefit of the whole region.

**Applicability of Study to Other Regions**

There is a great danger in trying to apply studies based on a
European Model to other regions of the world. Regional possibilities at a European level cannot be reproduced in other contexts because the necessary preconditions exist to a much lesser degree. The potential for increasing regionalism in Northwestern Europe is based on the social structure and ideological patterns, as well as the economic and industrial development of the region. These factors have allowed for a long period of peaceful cooperation and for the establishment of organizational structures upon which regional cohesion is based. While there is, at the moment, a breakdown of responsiveness within the community due to a reorientation of values it can be seen as a momentary aberration which will, in the future, be resolved when responses are created by the existing infrastructure to meet the new regional realities. No region in the world has achieved as close an affinity as Northwestern Europe in the area of regional relations.

Furthermore, the infrastructure that does exist in Northwestern Europe, developed through historical experience, has an integrative ability which is not present in most of the semi-enclosed sea regions of the world. As the regional supports of cohesion in Northwestern Europe become institutionalized they will promote regional policies in order to maintain and justify their existence. This fact constitutes a permanent force for regionalism in the area. Most of the other semi-enclosed sea regions are made up of developing countries which have not had the time, money, or interest to develop such

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sophisticated regional structures. Economically and politically the developing nations must focus most of their attention inward so they can solve urgent domestic problems. As a result the type of infrastructure that exists in Northwestern Europe has not had the opportunity to develop.

However, it is by no means definite that other regions in the world cannot also achieve regionalism, apart from the European model, based on some converging interests peculiar to them.146 There is no universal model for regionalism and the actual potential for regionalization would have to be determined on a case by case study. Despite this fact, it is felt that some definite points can be made on what to look for when considering the possibility of regionalism. These points are particularly aimed at regionalism in semi-enclosed seas.

1) The region, as a whole, and every political unit within that region should look upon the sea as a major interest or value. By this statement it is meant that the states should have a definite interest in the sea147 be it strategic, economic, or political. While by no means absolute, the potential for regionalism is best when the interests of the state are relatively similar.

2) The region should be non-exclusionary. That is, one or more states should not be prevented from participating in any regional


147For the difficulties in determining the interest that a nation has in the sea, see Lewis M. Alexander, "Indices of National Interest in the Oceans," Ocean Development and International Law 1 (Spring, 1973): 21-49.
dialogue on sea policy because of political or economic reasons. 148 This is especially important if the country being excluded has a major sea interest and is able to maintain it in the face of opposition.

3) There should be, at least, some previous means whereby communication in the region has been carried on. If not, any early regional agreements on sea policy would have to be relatively non-controversial so as not to create any early friction or clashes of interest.

4) Regionalism in an area will often be determined by the external political and economic environment. The creation of regional cohesion centered on a sea might be fostered or prevented by catalysts apart from the immediate area. 149

The major problem confronting regionalism in semi-enclosed sea areas is the heterogeneity of the units in the area and their diverse political and economic interests. To find a common ground where these interests can converge is vexing, not only to the local policy maker but also to the student of regionalism. It does appear that the potential for regionalism in the sea is relatively low, given the multiplicity of interests in the sea or, even lack of interest, on the part of the states concerned. If, however, these interests do

148 An example is the Caribbean where regionalism cannot be successfully developed unless Cuba is a participant.

149 One such catalyst is Arab oil policies which influence regionalism in Northwestern Europe. For an indepth discussion on catalysts in regionalism, see J.S. Nye, "Patterns and Catalysts in Regional Integration," pp. 870-884.
merge there will be increased possibilities for the development of a regional law of the sea.

**Final Note**

At present it is felt that regionalism is not an extreme threat to a unified law of the sea nor will it become so in the near future. But as more nations become interested in the seas adjacent to their coast, an issue conducive to regional communication becomes more viable. For regionalism to develop these contacts will be very important. It will provide a means whereby common interests can be promoted.

However, as this study has pointed out, the process of regionalization does not have an easy path even in areas with a long history of co-operation. The sea cannot only promote common interests, it can also change national policies and values, the result of which can be deleterious to regional relations.

A regional law of the sea will not be developed quickly or easily. There are too many variables in too many regions for it to become a pervasive phenomenon for the near future. However, regionalism is here to stay and will continue to grow. World attention must be focused on this fact and accommodated within an international ocean policy.
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