

# Offshore industry scores victory in long battle over Working Time

**THE EUROPEAN OFFSHORE** industry recently scored a key victory in its long, uphill battle to retain flexibility in the European Union's Working Time Directive. The Directive has now been extended to the offshore business; however, its terms will allow operation of offshore installations, especially drilling rigs, with little disruption to work routines, explained IADC Senior Vice President-Government Affairs **Brian T Petty**, who has been working the issue since 1990.

Under the new Framework Working Time Directive, **European Union** member states will retain broad powers of derogation "with appropriate use of flexibility clauses built into the Directive to take account of operational and safety requirements". The arrangement, set forth by the **European Commission**, incorporated nearly all the offshore industry's recommendations for the revised Directive. However, the EC did not have the last word. The next step in the lengthy process was consideration by the **European Parliament**, a left-leaning legislative body in which trade unions wield significant influence. And, in fact, the Parliament did attempt to attach an amendment to the Directive that would have gutted much of what the offshore industry had worked for. However, under the just-expired Maastricht Constitution of the evolving EU, the Commission and EU ministers could overrule Parliamentary recommendations.

This is in fact what happened. The Commission's Social Affairs Council rejected the Parliamentary rider and approved the Directive as crafted by the EC.

"This is very good news in preserving a flexible offshore working system in Europe," noted Mr Petty. "We've crossed yet another hurdle, thanks largely to the diligence of the **UK Department of Trade and Industry** in its lobbying efforts in Brussels."

Still, the Working Time Directive is not a done deal. In the autumn, Parliament gets another go at the Directive. This will be a new Parliament, though, elected in an EU-wide process during June. The new Parliament, the first elected under the 1997 Treaty of Amsterdam, which produced long strides in the EU's political evolution, will wield much broader powers than any before it. The Parlia-

ment will, in fact, enjoy powers co-equal to that of the European Commission.

As written, offshore workers would be subject to an annual limit of 2,304 working hours and entitled to 4 weeks annual paid holiday and appropriate rest breaks. In addition, night workers would be entitled to health assessments.

The Commission recognized that offshore work required flexibility. For example, it said that annual leave could be rostered in, and that special circumstances may warrant working hours' extension "in the case of activities involving the need for continuity of service or production". Offshore work is defined as "work performed mainly on or from offshore installations (including drilling rigs), directly or indirectly in connection with the extraction or exploitation of mineral resources and diving in connection with such activities, whether performed from an offshore installation or a vessel".

This definition was taken directly from the recommendation of the offshore industry's Work Time Work Group, in which IADC has been active since its inception in 1994.

IADC's work dates to the beginning of the decade, when the observant Mr Petty caught wind of an EC plan to propose a broad Working Time Directive. He quickly rallied IADC members and allies with the **Danish Shipowners Association**. Led by **Neddrill Nederland** and **Maersk Contractors**, IADC crafted comments opposing the application to offshore work of the draft Directive, issued in July 1990. IADC pointed out the critical differences between offshore E&P operations and conventional working times.

By January 1991, IADC had begun a concerted campaign to alert European governments to the dangers of the Working Time Directive. The strategy quickly gained sympathy from Denmark, France and the UK. The next step was to approach **E&P Forum** for its support of the campaign for either exclusion for the offshore industry or derogation, which would empower the individual member states to implement the Directive as it saw fit. E&P entered the fray with letters to the Commission urging derogation for the offshore sector. IADC also developed

an analysis of the likely impact of the Directive on land drilling within Europe.

IADC shifted gears and began calling on EC offices in Brussels to make the case both for offshore exclusion and to limit the scope of the proposed Directive as applied to onshore drilling activities. In May 1993, E&P Forum wrote Directorate General V, the bureaucracy in charge of social affairs, strongly supporting IADC's request for an outright exclusion for the offshore industry from the Directive.

The combined IADC/E&P Forum effort bore fruit in June. The European Council of Ministers agreed to the offshore exclusion, a decision that reportedly left the socialists in the European Parliament fuming.

The following March, E&P Forum organized the first meeting of the Work Time Work Group in London and asked IADC to make a presentation. IADC in turn invited the Danish Shipowners to participate. The new work group agreed to survey their members on existing working time practices, with E&P Forum and IADC conducting separate surveys.

In September '94, DG V announced it would review the exclusion for "other work at sea", the umbrella term that includes offshore E&P. As a result, IADC was invited to Brussels to formally participate in an "experts group" to advise DG V in this offshore review.

Then, in May '95, **Coshape Ltd.**, a consultant for the Directorate, visited Aberdeen and installations in the North Sea. IADC circulated a Coshape questionnaire on offshore working time practices to member companies. The response proved solid. By September '95, Coshape had produced a draft report sympathetic to offshore practices, but critical of the lack of more prescriptive regulations in Italy and the UK. The final Coshape report released by DG V included an improved explanation of UK authority under the safety-case system.

"The industry has many to thank for prevailing in the view that offshore work is unique and requires the broadest latitude in its design, but special thanks are due DG XVII, the Energy Directorate in the Commission, which was an active advocate for industry in the tough negotiations with DG V," Mr Petty said.

Still, the Parliamentary road ahead remains uncertain. But if Europe is to maintain a viable offshore industry, EU member states must be able to permit flexibility in working regimes offshore. ■