

Application of the Water Framework Directive Article 4(3) tests to navigable water bodies

**Workshop organised by WFD Navigation Task Group
Held at PIANC Headquarters, Brussels, 22nd June 2007**

CONCLUSIONS AND RECOMMENDATIONS

24 individuals representing 14 Member States and 6 stakeholder groups as well as the Commission's DG Environment (part) and DG Tren attended this one-day workshop organised by the WFD Navigation Task Group as a contribution to the CIS Hydromorphology activity. The main objectives of the workshop were to discuss how Member States are applying Article 4(3) of the WFD, and to highlight both significant differences and areas of consistency.

Following a series of case study presentations from England and Wales, Germany, the Netherlands and Ireland, a number of discussion sessions focussed on how the terminology in Article 4(3) is being interpreted and how the associated tests are being applied.

Overall, the following areas of broad similarity or consistency of approach and areas of (sometimes potentially significant) difference between Member States were identified by workshop participants:

Aspects of the approach to the application of Article 4(3) which are broadly similar between Member States	Aspects of the approach to the application of Article 4(3) where there are potentially important differences between Member States
<i>Type</i> of modification (both port and waterway infrastructure, and navigation operations and activities) potentially impacting on WFD quality elements	<i>Numbers/percentages</i> of navigation-related HMWBs (provisionally) identified
	Size of individual water bodies (notably in TraC waters), and associated scale issues
<i>Nature of impact</i> leading to HMWB designation	<i>Extent of impact</i> necessary to trigger consideration of HMWB designation
	Site-specific application of Article 4(3) tests <u>vs.</u> grouping of water bodies for assessment; individual water body <u>vs.</u> catchment scale consideration of possible mitigation measures
	Role of transport <i>policy</i> in determining whether the measures necessary to reach good status would have a 'significant effect on use' (ie. does <i>any</i> effect on inland waterway transport represent a significant adverse effect on use?)
Recognition of navigation as being an environmentally preferred form of transport (particularly an 'environmentally better option' than road or air transport)	Consideration of exactly what constitutes an 'other means' and the scale of application of this test (eg. at water body <u>vs.</u> at strategic level)
Expectation that most/all <i>major ports and navigable waterways</i> will be designated as HMWB	Outcome of application of Article 4(3) tests to <i>other ports and navigable waterways</i> (due to differences in designation process)
	Identification of <i>port areas</i> as HMWBs in their own right <u>or</u> consideration of port as part of a larger (heavily modified or non-heavily modified) water body (possibly combined with anticipated use of exemptions)
Comparative lack of consideration of hydromorphological effects of <i>recreational boating</i> when compared to those associated with major ports and commercial waterways	

Although some of the differences associated with the lack of consistency of approach between Member States may appear small, participants felt that the consequences could be significant. Greater clarity and/or improved consistency between Member States were particularly felt to be required in respect of:

- ensuring that a consistent approach is taken to setting good ecological status (GES) in navigable water bodies which are not identified as HMWB and, related to this:
 - o the need for greater clarity on how the intercalibration process has considered hydromorphological parameters, and
 - o the need to better understand/clarify the currently tenuous link between hydromorphological mitigation measures and ecological classification/monitoring
- improving transparency and understanding of how the Article 4(3) process is being applied, notably in situations where
 - o there are potentially significant differences in water body size, with associated scale issues, and/or
 - o where data, scientific knowledge and/or tools are lacking and decisions thus have to be based on expert judgement
- paying greater attention to (the hydromorphological impacts associated with) recreational boating
- assessing 'significant adverse effect on use' and 'other means' (eg. decisions on 'environmentally better options'): the development of supplementary tools/guidance may be of value in this regard

Participants agreed that many of these concerns would best be dealt with through further information exchange (particularly using case studies) and/or research and development projects. Some additional guidance (developed via the CIS process) may also assist in ensuring consistency between Member States in the application of the important Article 4(3) tests and hence in comparability in the resulting HMWB designation process.

In the short term, it is therefore recommended that:

1. Water Directors, Strategic Coordination Group members and members of the CIS Hydromorphology Strategic Steering Group pay attention to the areas where workshop participants identified potentially significant differences between Member States in their application to date of the WFD Article 4(3) tests: as the workshop report reflects the (sometimes significant) progress made by Member States since 2005, it helps to identify 'open issues' requiring future consideration.
2. the Hydromorphology Strategic Steering Group convenes one or more case-study-based workshop(s), specifically designed to give Member States and stakeholders the opportunity to exchange practical experiences on the issues indicated above. If appropriate, this process could also be used to identify areas where further research and/or the development of methodological tools are required.