

**EU Water Framework Directive Navigation Task Group
Meeting at EuDA Offices, Brussels
1300 hours, Tuesday 8th March 2011**

Minutes

Present: Jan Brooke, PIANC
Marc Eisma, ESPO
Erik Mink, EuDA
Marie Pendle, for MNSG
Caroline Price, EBA
Paris Sansoglou, EuDA
Albert Willemsen, ICOMIA
Diana Livia Ursachi, Deloitte (part)

Apologies: Mirna Cieniewicz, European Boating Industry
Nicola Clay, for MNSG
Anna Csiti, CEDA
Steve Hull, ESPO
Lola Ortiz Sanchez, PIANC
Axel Netzband, CEDA
Graham Newman, CEDA
Dieter Michael Saha, CCNR

1. Welcome, introductions and apologies

Participants, including Diana Ursachi from Deloitte (the Commission's consultants on the Fitness Check) were welcomed to the meeting.

Apologies were noted.

2. Minutes of last meeting and matters arising

The minutes of the previous meeting were approved.

On matters arising:

- EM reported that the 'Science-policy interface' workshops were interesting - for example, on hydromorphology, there was a clear understanding of research needs, etc. However, there has been no feedback after the event. **Action: EM to e-mail COM to ask what follow up is planned**
- JB reported that the autumn 2010 CIS economics workshop programme did not cover either disproportionate cost experiences or water use vs. water service issues. JB did not therefore attend
- the next SedNet conference will be in early April. ME will report back to the next TG meeting. There may be a further SedNet meeting next year dealing with the management of the Elbe
- AW reported that IMO has asked ICOMIA to lead on the preparation of a special document on recreational craft bio-fouling; ICOMIA is also a partner on an equivalent initiative for commercial vessels because larger recreational craft are considered thus. AW will report the first results to the next TG meeting. **Action: AW to circulate information about this initiative**

3. Commission's Water Policy Fitness Check

a. Introduction by Commission's consultants

DU introduced the Commission's assessment which aims to establish the extent to which water directives/policies including the WFD are adequately linked – both to each other and with other directives/policies – for example transport or navigation. Deloitte is carrying out this work on behalf of a number of Directorate Generals: their report will form a basis for further stakeholder consultation as well as an input into third Water Conference in 2012.

Amongst the issues Deloitte have already noted are clashes in terms of reporting schedules, and reporting requirements which deal with problems that are now obsolete. However, DU explained that Deloitte are keen to identify not only problems but also suggestions for solutions. For example, COM has suggested that there might be a role for more voluntary initiatives.

ME welcomed the evolution in water-related environmental legislation from the prescriptive nature of the Birds and Habitats Directives to the more recent Water and Marine Strategy Framework Directives – in particular the flexibility of these later Directives and the involvement of stakeholders in their implementation.

AW noted a number of clashes – for example there are 12-14 Directives which affect the recreational boating industry as well as a number of international conventions. A key element which is missing is the harmonisation of priority substances. There are also issues for both recreational craft and commercial shipping associated with emissions and air pollution – particularly the increasing interconnections between water and air policy. Deloitte confirmed that – indeed – COM is looking to increase integration between air and water quality with the objective of resolving inconsistencies in reporting, administration, etc. and hence to reducing the overall regulatory burden.

It was agreed that there are a number of areas in which harmonisation would represent a potentially useful way forward. EM highlighted current differences between the chemical aspects for drinking water; the WFD and REACH which are all at different levels and are therefore very confusing.

PS noted that there are often also inconsistencies with international conventions and regulations derived through e.g. IMO, OSPAR and HELCOM. EM suggested that COM should leave the detailed regulation to Member States or, for international activities such as shipping, to organisations like the IMO. EU rules are not appropriate to vessels originating from Asia or the Americas.

Another frequent policy clash was highlighted by the Estuaries initiative leading to the publication of the Estuaries guidance (see also Agenda item 6 below). Specifically on this, DG MOVE has a remit to develop transport. Transport needs infrastructure; and infrastructure development can clash with nature policy (this issue is particularly linked to fast-track procedures). However in this case, DG's MOVE and ENV worked together with stakeholder representatives to prepare joint guidance. Whilst this was a tortuous process and the outcome is not binding, it nonetheless shows how it is possible to resolve some issues through dialogue. **Action: JB to make Deloitte aware of PIANC's Working with Nature position paper.**

ME highlighted the issue not only of water quality but also water quantity (enough water for shipping and for drinking). This is an upcoming issue in the Netherlands which will require international coordination. Deloitte advised that consideration is being given as to whether or not a Directive on water scarcity is needed

JB noted that the failure to deal consistently with sediment management under the WFD was another issue of concern / potential missed opportunity, and pointed out that AN had suggested providing the recent SedNet RT report as an input to the Fitness Check.

b. Way forward

Action: TG members are requested to provide JB with an indication of their 'headline concerns' by March 23rd. TG members are asked to remember that the link is water policy: the inter-relationships between the WFD, Nitrates Directive, Groundwater Directive, EQS Directive, water scarcity and droughts paper, Floods Directive, etc. and consistency or otherwise between these Directives and other policies. Deloitte's work is not covering the MSFD. JB had already raised this issue at the SCG as a potential missed opportunity, but it can be raised again as a response to the Deloitte questions.

On receipt of the Group's various comments, JB will undergo an interview with DU to pass on the views of the organisations attending the TG: this will not be a common TG position. At a later date, each TG member organisation will have the opportunity to complete a more detailed survey. JB will coordinate with DU on this.

JB noted that GN had provided a check list of questions being used by the consultants in the UK as part of the Fitness Check. These are shown as Annex 1 to these minutes.

4. Environmental Quality Standards Directive

a. Sediment EQS position paper

JB thanked EM and all those who had contributed to the preparation of the position paper. She explained that the paper has been circulated not only to WG E members but also to SCG members (the latter following discussion at the SCG meeting about the anticipated practical difficulties of applying the EQS Technical Guidance Document).

JB advised that the TG has an opportunity to present the sediment EQS position paper at the forthcoming WG E meeting. EM confirmed that he will attend this meeting and present the paper. It was agreed that the presentation would focus on the scientific and technical issues (rather than the legal requirement or otherwise for the Commission to set sediment EQS). It should also stress that we do not disagree with catchment or RBD specific sediment EQS – rather we are concerned that EU-level standards are not scientifically or practically workable. Reference could also be made to the SCHER work, and to the now acknowledged difficulties associated with applying the EQS TGD in practice.

Action: EM to prepare draft PowerPoint slides to circulate for comment to those involved in preparing the position paper

AW advised that he may also attend the WG E meeting for the discussion on the additions to the PS and PHS lists. AW noted that PS and PHS issues are important to ICOMIA members, and that the points of concern to those involved in manufacture may be different to those relevant to infrastructure.

All TG members agreed that there is little point adding 'legacy' substances to the list if all practicable measures are already being taken, there is little to be gained from monitoring.

b. Priority substances inventory

JB reported on discussions at the January meeting, including:

- some Member States are already making progress with their inventories: for them the guidance may be 'too late' (although COM is keen to include good practice examples in the guidance); other Member States need guidance and are awaiting its outcomes
- there is a need for caution on how any sediment data are included in the inventory: sediment appears in the wording of Article 5 and cannot therefore be ignored. However, if sediments are contaminated, including 'sediment-only' data could lead to a misleading assumption that there is a problem with water status if the contaminants are bound to undisturbed sediment. Careful wording is therefore required
- more discussion is needed in the guidance on how the inventory might be used – in particular, where there are caveats on which data might be useful to assist in trend or source identification, these should be explained
- the TG is requested to comment on the respective pros and cons of the three approaches: riverine load oriented, source oriented and pathway oriented.

Action: JB to circulate latest version of guidance for comment on approaches and other issues before April 9th

JB and AW will attend the next meeting (in Rome, April 11th – 12th).

c. Mixing zones workshop

JB noted that a workshop on the application of the mixing zones guidance will be held in Italy on 5th – 6th April. **Action: JB to circulate announcement in case anyone wishes to attend.** ME commented that the guidance promotes the process already used in the Netherlands.

d. Metals availability workshop

JB also noted that a workshop on the bio-availability of metals will be held in Brussels on June 21st. MP may be interested in attending. **Action: JB to check on CIRCA and circulate announcement**

e. Discussion on SCHER opinion

EM reported that the opinion provided to COM by SCHER (Scientific Committee on Health and Environmental Effects) was critical of the TGD in places, some of which coincide with the concerns of the TG - for example, on setting EU-level standards; on the lack of clarity of the aims of EQS; on the availability of data; on the issue of EQS for sediments (e.g. uncertainty about whether a contaminant is from a century ago or from 1000km upstream); on the inappropriateness of EQS in transitional water bodies. EM further noted the importance of ensuring that sediment EQS are not used as a basis for requiring measures.

f. Other WG E matters

EM reported that ENTEC are carrying out the cost-impact assessment for the proposed new priority substances and that there is some debate in WG E as to whether their methodology is correct, for example insofar as it fails to acknowledge that there are dis-benefits (e.g. to medicine; to agriculture) of phasing out certain substances.

EM asked the TG for their opinions on additions to the priority substances list. AW indicated that there is a potential issue with copper as there is currently no replacement available to the sector (although the potential for a problem depends on the type of copper being used). It was further agreed that if a 'legacy' substance is being proposed for inclusion on the list, it is important to be clear why it is to be included/ what we are hoping to achieve?

Action: EM to attend the WG E meeting and prepare a report a brief report for the Group.

5. CIS and Commission activities

a. March 2011 SCG meeting

JB summarised the other matters discussed at the SCG meeting: the reduction in the number of legal cases; the question of water services (nothing to report from COM); water scarcity and drought activity; and the Danube strategy.

AW raised the question of who attends the SCG. JB noted the current arrangements with the Commission (i.e. that three of the four registered EU-level navigation organisations can attend) and asked ICOMIA to resolve this with MC.

b. Water Blueprint

The main activity related to the Blueprint which was reported at the SCG was the fitness check.

c. Climate change activity

JB confirmed that she will attend the forthcoming ClimWatAdapt workshop and CIS Expert Group meeting. **Action: JB to report back to the TG following this workshop**

d. Biodiversity and water

JB reported that 72 experts have now signed up to the Expert Network, but that there has been no other activity. JB also advised that TG members and MSNG members have an opportunity to frame any specific questions (e.g. regarding the links between good ecological or good environmental status and favourable conservation status) which need to be dealt with as the FAQ paper is updated. **Action: all to identify specific questions to be addressed and to advise JB before March 31st**

AW enquired whether the EU has adopted the UN and IMO agreement on the post 2010 biodiversity targets? **Action: JB to check with COM**

6. Commission guidance on Habitats Directive implementation in estuaries and coastal zones

It was noted that this document was published without an accompanying Communication. EM notes that the guidelines appear more pragmatic than certain ECJ decisions; also that, as 'soft law', the document represents a good practice guide. **Action: JB to circulate a link to the guidance**

7. PIANC Navigation Task Group website

JB noted that the website is now updated, for example with the Sediment EQS position paper. The website can be found at <http://www.pianc.org/euwfd.php>

8. Revised Waste Framework Directive

AW noted the relevance of the revised Waste Framework Directive to ICOMIA insofar as it promotes the need to check re-cycling and re-use opportunities. From a dredging perspective, waste issues remain under discussion with nothing new to report.

9. AOB

AW remarked that the influence of air emissions on water is becoming more important with an increasing focus (e.g. industrial emissions Directive, revised IPPC Directive, etc.) and stressed

the need for clarity on the respective goals. Given the importance of the inter-relationships between air and water for vessels, craft, infrastructure, etc., it was agreed to put this topic on the agenda for the next TG meeting. **Action: JB**

AW further noted that the EAPM (European Association of Paint Manufacturers) are following the priority substances elements of the WFD: he will propose something for the next agenda

10. Date of next meeting

It was agreed to consult the MNSG to determine the preferred timing of the next meeting.

Action: JB and NC

Annex 1 Fitness Check Indicators

Relevance

1. Degree to which the current objectives of policies covered by the FC reflect and operationalise related challenges for European freshwaters (adequate / not adequate):

- water availability
- water quality
- floods
- droughts
- leakage

2. Degree to which the policies include all potentially available instruments to address challenges related to addressing water demand (regulatory, economic pricing, spatial planning, information, voluntary agreements) (adequate/not adequate)

3. Overall conclusions on gaps in current EU Water Policy

Effectiveness

1. Formal compliance

- # of member countries that reflect overall objectives of WFD in transposition legislation (very well, moderately, weak or not at all)
- # of member countries (MC) that published River Basin Management Plans (RBMP)
- # of MC that implemented monitoring programs
- # of MC that completed Registers of registries
- # of Registers completed v. # of Registers required (one per water basin district – WBD- or per unit of management)
- # of MC that provided info on planned measures & invited the public to consultations before submitting RBMP
- # of MC that have appointed relevant authorities for WBD management
- # of MC that have set up the threshold values as requested by the Groundwater Directive
- # of MC that have established inventory of emissions, discharges, losses of pollutants as required by the Quality Standards Directive
- Development of infringement procedures under the UWWT Directive
- Development of infringement procedures under the Nitrates Directives

2. Factual compliance

- # of environmental/economic analyses of the situation done in a properly integrated way, taking into account environmental and resource costs
- # of environmental/economic analysis of the situation in RBMP follow the guidance document provided by European Commission
- # of RBMPs that come forward with concrete approaches to water pricing and cost recovery
- Quality of public participation during consultation (both in terms of timing and information as well as in transparency of selecting topics for consultation)
- Quality of threshold values as requested by the Groundwater Directive and of emission inventories as requested by the Quality Standard Directives
- Quality of Action Programmes for vulnerable zones under the EU Nitrates Directive in terms of their contribution to reducing nitrates pollution

3. Comparison of compliance of performance of MCs

- Status in making the measures operational (qualitative assessment of the extent to which measures in the RBMP are operational)
- # of MC that have already updated (some) RBMP
- coordination of measures for the same
 - ecological
 - hydrological
 - hydro-geological/hydro-morphological system(s) in individual MCs (e.g. somewhat coordinated, barely coordinated, highly coordinated, etc.)
- progress across basins that has similar “water statuses” initially (e.g. poor, moderate, good, high)

Efficiency

1. Evidence of EU MC administrative cooperation within the same RBD

- # of administrative representatives that cooperate with their counterparties on a routine basis
- Evidence of policy transfer (e.g. list of situations where successful policies were „copied” in other MC)

2. Opinion on the degree of co-operation and policy integration between RBD and the different administrative units in Member States, and between Member States in trans-boundary basins

3. Perceived added value of co-operation and policy integration between the river basin level and the different administrative units in Member States, and between Member States in trans-boundary basins to implement WFD

4. Comparison of budgets used to bring size-comparable WBD/units of management to the same status (e.g. good, high, moderate, etc.)

5. Perception of the adequacy of the availability of and access to funding in relation to expected achievements (appropriateness of different EU funding opportunities, i.e. under the Cohesion Policy, Life+, etc.)

6. Perception of potential administrative burden related to implementation of policies covered by the FC

Coherence

1. Qualification of regulatory gaps and overlaps in current EU Water Policy

- Gaps in the current regulatory framework re emerging problem challenges
- Degree to which similar objectives are addressed by different legislation

2. Degree of integration and coherence within the policies covered by the FC (qualitative assessment)

- Degree to which reporting obligations match in terms of timing and content
- Degree to which legislation is linked and using the same methodological standards

3. Degree of integration of policies covered by the FC (including policies on water scarcity and droughts) with other environmental policies and their instruments (qualitative assessment) in terms of correspondence of objectives and approaches to address trade-offs:

- biodiversity & nature protection
- mitigation and adaptation to climate change
- air quality
- waste
- Resource efficiency

4. Opinion on potential improvement to better exploit the scope for integration of WFD with other policy objectives (e.g. biodiversity & nature protection, flood protection, management of water availability, adaptation to climate change)

5. Degree to which EU policies on water scarcity and droughts and on climate change adaptation are taken into consideration in other EU policies such as the CAP, Cohesion Policy and Energy and Transport Policy, e.g.

- Treatment of water issues in agri-environment schemes
- Treatment of water issues in environmental compliance criteria under CAP
- Inclusion of water issues (increase of efficiency in use, conservation of water stocks, etc) into funding schemes under Cohesion Policy