

Overlap between the EU Water Framework Directive and the EU Marine Strategy Directive in Coastal Waters

March 2010

The European WFD Navigation Task Group and the Marine Strategy Navigation Groupⁱ have identified a potentially significant issue with regard to the overlap between the Water Framework Directive and the Marine Strategy Framework Directive in coastal water bodies. The Navigation Groups therefore request Water Directors and Marine Directors to consider the following.

Background

Preamble 12 of the Marine Strategy Framework Directiveⁱⁱ (MSFD) refers to 'coastal waters' (as defined in Directive 2000/60/EC, the EU Water Framework Directiveⁱⁱⁱ (WFD)). It states that these coastal waters, including their seabed and subsoil, are an integral part of the marine environment, and as such should also be covered by the MSFD, only *in so far as particular aspects of the environmental status of the marine environment are not already addressed through the WFD*, so as to ensure complementarity while avoiding unnecessary overlaps.

Coastal water bodies are amongst the most intensively used marine water areas in the EU. Ports, shipping and other navigation-related activities are just some of the multitude of uses.

Not only are coastal water bodies intensively used, in many countries they are also geographically extensive. As illustrated by Figure 1 which shows the extent of WFD coastal waters, the absolute area of physical overlap between the WFD and the MSFD across Member States is huge.

The WFD in coastal waters

River Basin Management Plans (RBMP), which have been prepared to meet the requirements of the WFD, have recently introduced new ecological and chemical status objectives to coastal water bodies. The RBMPs discuss the current status of coastal water bodies and, where needed, describe the programmes of measures designed to help the water body meet the WFD targets of Good Ecological Status (GES) and Good Chemical Status (GCS) by 2015. Irrespective of other national initiatives, coastal water bodies are therefore already subject to a number of EU-driven environmental objectives and actions, set out in Plans required under EU legislation.

Need for clarity on role of MSFD in coastal waters

With the forthcoming development of Marine Strategies under the MSFD (which will describe *inter alia* the programmes of measures required to achieve Good Environmental Status, also known as GES) the Navigation Groups have identified that there is great potential for duplication and confusion. For example:

- both the WFD and the MSFD use the acronym GES for their objectives. Thus two (very different) GES targets will apply in the same water body. The now established use of the acronym 'GES' in coastal water bodies under the WFD refers to a carefully defined biological objective taking into account physico-chemical and hydromorphological parameters. GES under the MSFD is much broader. Some operators will find this difficult to understand.

- two different strategic plans, which in some Member States will be developed and administered by different organisations, will set out different programmes of measures which will apply to the same water body. Again this will potentially be confusing for operators in these water bodies.
- for several of the MSFD descriptors (e.g. contaminants, eutrophication, hydrographical conditions, sea floor integrity), good environmental status in coastal water bodies will be delivered largely or entirely through the measures to be taken under the WFD. This must be properly recognised.

Taking into account all of the above, the Navigation Groups are concerned that there is a real likelihood of potentially significant unintended consequences if the inter-relationships between the MSFD and the WFD in coastal water bodies are not properly managed. For many sectors operating in coastal waters (particularly those such as ports and navigation which also operate in adjacent WFD-only transitional water bodies) the economic costs of any confusion, duplication or delays could be very high.

Careful coordination, cooperation and communication based on a thorough understanding of these inevitably complex inter-relationships will therefore be vital: if such future issues are to be minimised, it is essential that adequate attention is given to ensuring proper and effective integration from the very earliest stages of MSFD implementation.

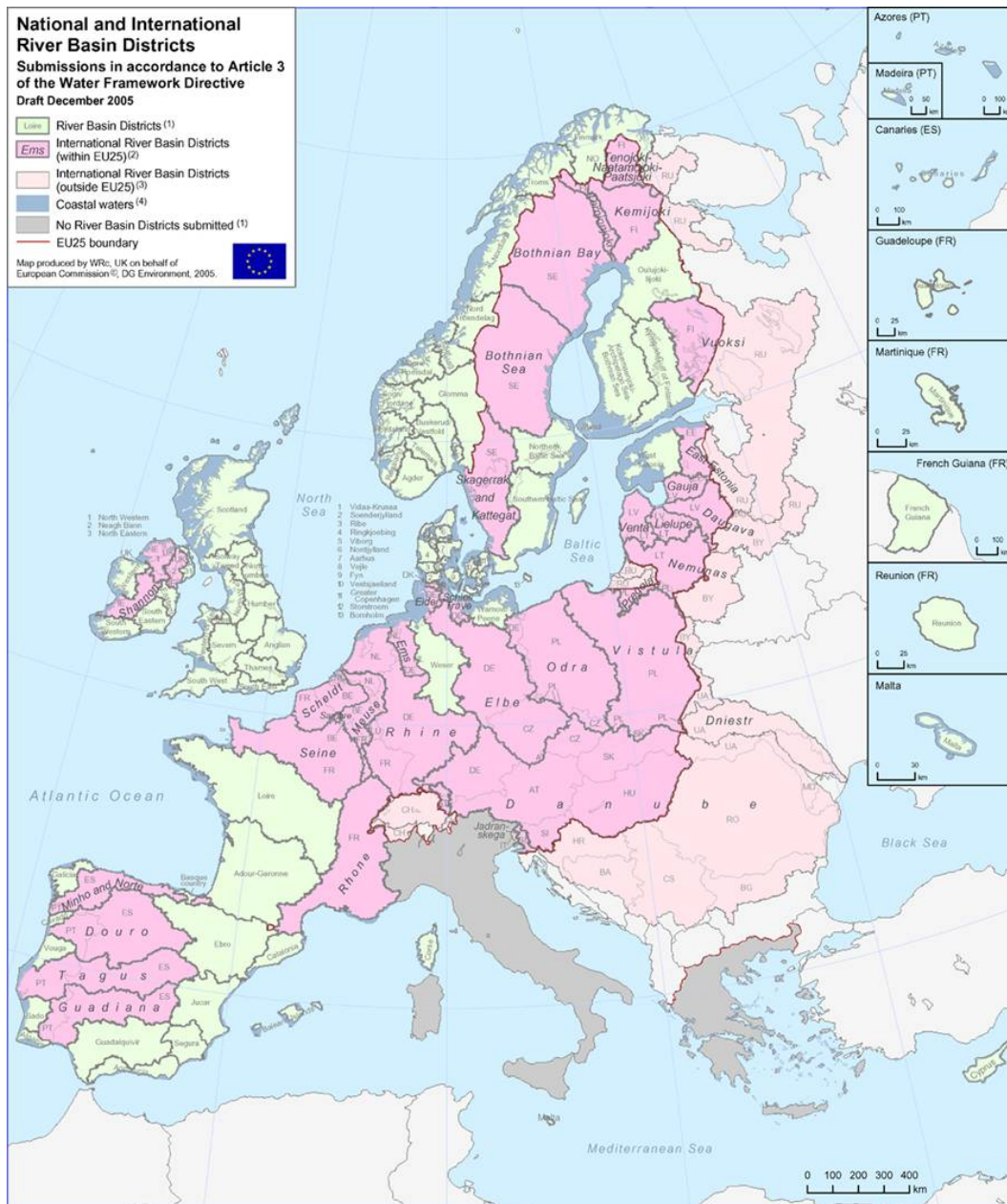
Specific requests to Water and Marine Directors

The Navigation Groups have been monitoring the progress to date with the activities being undertaken under the initial MSFD implementation process and are very concerned that too little attention is being paid to this important and geographically extensive overlap with the WFD in coastal waters. In particular, some of the GES Task Groups of the MSFD do not seem to be either acknowledging or making provision for the application of GES in this area of overlap. Whereas reference is made to the WFD in respect of eutrophication and concentrations of contaminants, it does not appear from the document 'Elements for the Commission decision on criteria on good environmental status under Article 9(3) MSFD' that any account has been taken of WFD objectives and processes insofar as the sea floor integrity, hydrographical conditions or biological diversity descriptors are concerned.

The Navigation Groups therefore request that Water Directors and Marine Directors take appropriate steps to address this issue before it becomes a serious problem. In particular:

- as the first round WFD RBMPs are now largely finalised, the Navigation Groups believe that it is incumbent upon those working on MSFD to ensure: that the inter-relationships are properly considered; that the respective requirements of the two Directives in coastal water bodies are clearly thought out and communicated; and that guidance is prepared accordingly. This advice should apply to all activities carried out on MSFD interpretation and implementation; and
- if significant adverse economic and commercial consequences are to be avoided, Member States, regulators, operators and stakeholders alike all need to understand how duplication can be avoided, how potential conflicts can be resolved, and how this extensive area of overlap can be effectively managed. This understanding needs to be developed and communicated from the very beginning of MSFD implementation including in the forthcoming Commission decision.

Figure 1. Map illustrating the extent to which WFD objectives extend into marine waters



ⁱ The WFD Navigation Task Group and the Marine Strategy Navigation Group are ‘thematic clusters’ of European navigation-related organisations which provide the navigation sector’s contribution to the WFD Common Implementation Strategy (CIS) and the equivalent process for the Marine Strategy Framework Directive. Together, the Groups comprise a number of professional bodies, trade associations and other stakeholders concerned with ports, commercial and leisure navigation and dredging, including: Central Dredging Association; European Barge Union; European Boating Association; European Boating Industry; European Community Shipowners’ Associations; European Dredging Association; European Federation of Inland Ports; European Sea Ports Organisation; ICOMIA; Inland Navigation Europe, International Salvage Union and PIANC (the International Navigation Association).

ⁱⁱ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy.

ⁱⁱⁱ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy or other Community legislation.