

**EU Water Framework Directive Navigation Task Group
Meeting at PIANC Offices, Brussels
1300 hours for lunch, Tuesday 4th October 2016**

Minutes

Present

Emma Barton, EBA
Jan Brooke, PIANC
Marc Eisma, ESPO
Kai Kempmann, CCNR (observer)
Chantal Martens, MSFD NAVI
Erik Mink, EuDA

Apologies

Antonis Michail, ESPO
Henrich Roeper, CEDA
Paris Sansoglou, EuDA
Albert Willemsen, ICOMIA

1. Welcome, introductions and apologies

ME noted that AM is leaving ESPO. **Action: ME to ask ESPO about a new point of contact for the NAVI TG**

Apologies were noted.

2. Minutes of last meeting and matters arising

The following points were noted:

- EM has not registered to participate in the ATG on Article 4.7 but expects that EuDA will sponsor this activity
- EB has not yet forwarded the CEFAS paper to JB (to review the extent of overlap between the WFD hydromorphology and physico-chemical and the MSFD hydrographical conditions parameters. **Action: EB to forward paper to JB**
- ME to forward link to SedNet website to provide information on SedNet activities. **Action: ME**

Other actions and matters arising were included on the agenda for the meeting.

3. SCG meeting notes

a. Overview of meeting

JB provided an overview of the last meeting, noting that much of the discussion concerned the two new ad hoc Task Groups. Other points of note:

- the environmental NGOs indicated that they wish to be included in the process leading towards the 2019 review of the WFD
- the advocate general's opinion on Case C-346/14 regarding the construction of a hydropower dam in Austria was available (the ruling has since been published, see below)

b. Ad Hoc Task Group on Hydromorphology

JB advised that action on hydromorphology is expected to be stepped up during the current CIS Work Programme. The new Ad Hoc Task Group (ATG) is intended to provide a previously-lacking level of coordination between the various disparate hydromorphology-related activities under the CIS,

including the WG ECOSTAT work (e.g. on intercalibration of GEP), the work on the Floods Directive, under the Programmes of Measures WG, etc.). Whereas some activities will continue to take place under ECOSTAT, there will also be SCG-led activities. In this latter regard, the HyMo ATG will provide a link to new activities such as the ATG on Article 4.7; links to MSFD activities; and technical guidance.

JB will represent NAVI TG on this Hydromorphology ATG.

Amongst the first activities under this ATG, there will be a hydromorphology and rivers workshop in Ispra, Italy (October 13th – 14th). CCNR had intended to be represented by the NL Rijkswaterstaat, but RWS will no longer attend.

The next ECOSTAT meeting will be held in Den Helder, NL, on 20th – 21st October. The first agenda items at this meeting relate to the hydromorphology activity. JB will attend the first morning of the ECOSTAT meeting and will therefore receive the report of the hydromorphology and rivers workshop to pass on to NAVI TG members.

KK indicated that CCNR would intend to participate in future hydromorphology and rivers activities, as the Secretariat if necessary.

Action: JB to prepare and circulate a note on the hydromorphology related discussions at ECOSTAT, including feedback at ECOSTAT on the Ispra workshop

c. Ad Hoc Task Group on Article 4.7

JB advised that this ATG is also now starting up. There will be a workshop on December 13th - 14th at which JB will present (likely on her work for JASPERS / in the UK). A particular emphasis of this workshop will be on establishing the procedure leading to the decision on whether Article 4.7 needs to be applied to a particular project.

Attention will also presumably be given to the outcomes of the Weser ruling <http://curia.europa.eu/juris/liste.jsf?num=C-461/13> confirming that deterioration is to be established at element level, and also to the more recent Styria hydropower development ruling <http://curia.europa.eu/juris/liste.jsf?num=C-346/14>, which confirmed that the decision on what constitutes overriding public interest lies with the Member State *as long as the correct process has been followed*. KK noted that consideration had indeed been given in this project to different configurations for technical feasibility.

EB suggested that, as there is so little WFD case law to date, all relevant points from both these rulings should be included in the guidance to help improve certainty.

KK indicated that CCNR will follow the work of this ATG and may also participate in the ATG as an intergovernmental organisation.

d. Benefits of adaptive management approach

EM's paper on Article 4.7 and the Weser ruling was discussed. EM highlighted that not all change is bad (i.e. hydromorphological change can lead to ecological benefits). He also explained how it can be very difficult to determine whether a certain threshold has been exceeded causing deterioration at element level in certain parameters. It was agreed that the concept of adaptive management has a potentially important role in situations where there is uncertainty about potential effects on status but where the risks are understood and where mitigation is possible (i.e. the risks are manageable).

Action: JB to emphasise the benefits/advantages of adaptive management at the ATG workshop and its follow up meetings

EM pointed out that a flexible approach, informed by monitoring, is far preferable to relying on (often inflexible) Court rulings.

It was agreed that no further action is required with regard to EM's paper (i.e. it remains an internal NAVI TG discussion paper).

4. Working Group Chemicals

EM advised that several meetings of WG Chemicals have been postponed. The latest date for a proposed meeting is 12-13th December. He noted that topics for discussion will include the substances proposed to be added to the P(H)S lists when the EQS Directive is revised. The potential addition of substances such as biocides and endocrine disruptors is proving controversial and it is likely that a range of discussions is ongoing behind-the-scenes (including a definition of endocrine disruption). There is no clear proposed or draft list yet: EM will circulate this when it is available.

ME confirmed that the equivalent meetings at national level in NL have also been subject to postponements and cancellations.

It was noted that JRC has distributed a 'litter from rivers' questionnaire to Member States, presumably part of the process linking WFD and MSFD implementation.

- a. Use of open loop scrubbers in WFD water bodies

JB reported that AM has sent a COM-ESSF paper from earlier this year to JB. **Action: JB to circulate**

Post-meeting note: note from AM circulated with draft minutes

EM reported that the European Sustainable Shipping Forum (Scrubbers Forum) met on 15th September. This meeting considered *inter alia* a new scrubber design (but this is not yet proven) and information related to the quality of washwater. **Action: EM to circulate a report from Benoit Loicq presented to the meeting; ME to circulate a statement by ESPO/ECSA.**

- b. Biocide approvals

AW had provided a written update on the current situation regarding biocide approvals, including under EU regulations. Currently COM approves the substance but Member States approve the use of biocide *products*. A problem therefore arises when MS use different criteria e.g. some vessels owners will travel to a different country to have their preferred biocide applied.

There is the potential for further problems when there is inadequate dialogue between e.g. DG SANCO and DG Env, not least because of the need to find the correct balance between the use of biocides [with the associated implications for marine life directly and indirectly via water/sediment quality contamination] and the risks posed by the importation and distribution of non-native species, especially invasive species, if antifoulants are not effective. The latter scenario has obvious implications for achievement of WFD and LSFD objectives. **Action: JB to raise this issue with COM at the forthcoming WFD SCG meeting**

EB reported that COM has recently approved three copper substances so MS can now approve paints using these substances. The latter scenario has obvious implications for achievement of WFD and MSFD objectives, in particular if one or more biocides under scrutiny ends up on the list of priority substances.

5. Other business

- a. TEN-T and Good Navigation Status

KK introduced an activity being undertaken under the TEN-T initiative to define the concept of Good Navigation Status (GNS). European waterways need to achieve GNS by 31st December 2030. The first activity took place in June 2015 when COM let a contract to consultants to elaborate on the concept.

The criteria developed have included hard components (physical dimensions) such as draught / depth (although there are some issues here not least because a reference water level is not defined) and air draught / headroom and soft components such as traffic management and clean fuel. There are also

provisions for exemptions. KK reports that this has been a fast-moving project with revised papers being issued quite frequently: amongst the concerns expressed are the need to respect regional conditions; the need for the GNS concept to apply to regulated and free flowing rivers as well as to canals; and the lack of consideration given to flexible solutions designed to facilitate climate change adaptation and to deal with the challenges posed by more frequent extreme weather conditions.

The project is being driven by COM (TEN-T) who would like to see a fixed (i.e. quantitatively defined) system. However, some waterways already operate at close to optimum even though they do not, for example, offer the depth likely to be 'required' to achieve GNS. Further some of the implied proposals are unlikely to be technically feasible. Of relevance to the NAVI TG (and notwithstanding the statement that "other regulations to be respected") is the potential conflict between the requirements of GNS and the achievement of good ecological status under the WFD – this is because physical modifications are likely to be needed on some waterways to achieve GNS. **Action: JB to establish with the COM WFD team whether this potential issue is being addressed**

EB asked who is considered to be 'industry', and indicated that EBA has not been involved.

Action: KK to forward relevant papers to JB to distribute to NAVI TG including a presentation from a regional workshop

Post-meeting note: papers from KK circulated with draft minutes

b. Navigating a Changing Climate

JB provided an update on the activities of the Think Climate coalition, including progress on the development of the new website and the forthcoming conference (Brussels, 27th – 28th March 2016). She also highlighted the progress being made on the WG 178 Working Group technical guidance on climate change adaptation, which will *inter alia* focus on the type of flexible, adaptive management solutions discussed above.

Post meeting note: organisations represented on the WFD NAVI Task Group that are not already registered as supporters of the Navigating a Changing Climate initiative are encouraged to sign up, ideally before the start of COP22 in Marrakech. **Action: JB to advise when the online supporter registration is available on the new website**

c. SedNet

ME reported that SedNet:

- has a new Working Group on Climate Change
- will hold a conference in Genoa in June 2017 entitled 'sediments on the move'; this will include a session on climate change
- sediment management in river basin management planning will be the subject of a Round Table meeting in Budapest in November 2016
- Jos Brils is participating on behalf of SedNet in the MAES activity under the EU biodiversity strategy
- there are plans to hold a workshop in Antwerp on ecosystem services

Action: ME to provide a link to these initiatives for JB to include in the minutes

d. Links with MSFD

Various issues in relation to the implementation of the MSFD in WFD water bodies were raised at the MSFD NAVI meeting. **Action: JB to raise these issues with COM's WFD team**

6. Date of next meeting

The next NAVI TG meeting is likely to be held in March or April 2017. EB asked that the period 26-30 April be avoided as EBA meetings are held this week.