

**Minutes of meeting
12th November 2018**

**EU Water Framework Directive Navigation Task Group
Meeting at PIANC Offices, Brussels
1030 hours for lunch, Monday 12th November 2018**

FINAL Minutes

Present

Jan Brooke, PIANC, Chair
Marc Eisma, ESPO
Kai Kempmann, CCNR
Andrea Lotesoriere, European Boating Industry
Erik Mink, EuDA
Sotiris Raptis, ESPO (part)
Henrich Roeper, Port of Hamburg/CEDA
Karin de Schepper, INE (part)

Guests

Victoria Cherrier, Wood Consultants (part)
Cynthia Pauwels, Port of Antwerp

Apologies

Erik Schultz, EBU/European Water Platform
Sonja Wild-Metzko, CEDA
Albert Willemsen, ICOMIA

1. Welcome, introductions, apologies

JB welcomed those participating, especially Andrea Lotesoriere who was attending the WFD NAVI Task Group for the first time and Cynthia Pauwels, a guest from the Port of Antwerp. Apologies were noted.

2. EU Water Conference

The notes prepared by JB from the Water Conference on 20th September 2018 were acknowledged. In addition to the notes relevant to the Fitness Check, the presentation from EEA on priority and priority hazardous substances was also highlighted. ME asked about the work on the EU plastics strategy. **Action: JB to try to find a link to this work**

Post meeting note: For EU Plastics Strategy, see https://ec.europa.eu/commission/news/first-ever-europe-wide-strategy-plastics-2018-jan-16_en

3. Stakeholder Workshop on the Evaluation of the WFD and Floods Directive

The notes prepared by JB following this workshop on 10th October 2018 were also acknowledged as informing the discussion on the Fitness Check (see below).

4. EU Water Framework Directive Fitness Check

Prior to the arrival of COM's consultant, there was a short discussion on the key issues arising from the sector's experience of WFD implementation practicalities over the last 15 years. JB stressed that the Fitness Check is looking back at experiences rather than looking forward to future water policy *per se*. Prior to the meeting, JB had identified the following as potentially relevant topics for discussion:

- I. Lack of recognition of the role of sediments in achieving WFD objectives
- II. Lack of adequate implementation attention to transitional and coastal waters generally

- III. Poor links with the MSFD notably in relation to hydromorphology, scale and new projects in coastal water bodies (i.e. licensing or authorisation decisions)
- IV. Inadequacies in the approach to monitoring chemical status and sediment quality in coastal water bodies; preference for links with MSFD?
- V. Difficulties in dealing with specific pollutants under the ecological status heading
- VI. Need for better coordination between WFD, IED, REACH, the Biocidal Products Regulation and the Waste Framework
- VII. Inability to properly reflect progress / lack of incentives to take small actions because of the one-out-all-out principle
- VIII. Realism of 2027 deadline? Concern about possibility of introducing a rush of poorly informed measures in TraC water bodies vs. setting of less stringent objectives

These topics were briefly reviewed before COM's consultant arrived. Climate change and the difficulties associated with reconciling two different status objectives (ecological and chemical) were added to the above list.

5. EU Water Framework Directive Fitness Check: discussion with COM's consultant

Victoria Cherrier explained that Wood and other consultants are contracted to carry out a study to support COM in their Fitness Check. In addition to Wood, the project team includes several other companies. Trinomics and Wood have an evaluation role; Wood also has water expertise. Deltares and Wageningen University are providing technical input. The Regional Environmental Centre in Hungary is providing water expertise and outreach/language skills.

VC explained that there is an ongoing online public consultation with basic questions but that this consultation also contains some more detailed questions aimed at those with a more in-depth knowledge of the Directives. For now, the questionnaire is only in English but other languages will be added soon. VC encouraged all Task Group member organisations to consider responding to the online questionnaire as well as participating in other aspects of the consultation process. **Action: all**

In addition to the public consultation, COM's consultants are planning to collect data on more detailed, specific issues. VC explained that the more targeted consultation will cover 7 or 8 specific topics via an online, open text questionnaire due to be released later in November. The topics to be covered by this exercise include:

- Exemptions
- Coherence
- Costs and benefits
- Application of GES/GCS and interactions
- Monitoring and reporting cycles
- Water pricing and polluter pays
- Public participation
- Non-deterioration principle / WFD Article 4

This consultation will run until the end of January 2019. It was agreed that all TG member associations should respond individually whilst also providing a Word version of their responses to JB so that she can collate a 'sector' view of the key issues. **Action: JB to circulate link; VC to provide Word version; all to respond online and to JB**

There will also be interviews with Member States, and further engagement with key stakeholders.

VC reminded those present that the purpose of the Fitness Check is to look backwards. The consultants will be collating information (facts, evidence not opinions) about how the Directive has been implemented in practice, focussing on the respective strengths and weaknesses of the group of Directives being considered (WFD, FD, GWD, EQSD) and questions such as whether implementation costs have been proportionate.

VC stressed that the consultants are not 'looking forwards'. Indeed, if the Directives were to be changed, such change would be for the next Commission to make, not the current one!

In discussion, the following points were raised:

- the parallel tracks for ecological and chemical status sometimes make practical implementation difficult
- chemical status data are lacking in coastal and transitional (TraC) waters and different analytical techniques are applicable; it does not make sense to analyse total water samples in TraC waters; the EQS standard setting process is therefore questionable
- links between sediment quality (status) and water quality (status) are often weak; sediment is not always a suitable medium to measure to determine water status; sediment is representative of legacy issues but not necessarily of current water status
- floods can resuspend contaminated sediments and carry them downstream
- better integration between climate change and the Floods Directive is needed
- increasing frequent problems with saline intrusion are linked to climate change but are also symptomatic of Member States' general lack of attention to transitional waters
- microplastics in freshwater are subject to increasing attention in their own right as well as being a main input source to the marine environment
- drought and water scarcity issues are very relevant to navigation; if vessels cannot use the river, freight has to move to road – with consequences for both carbon emissions and PAHs, etc. (which in turn exacerbate problems with water quality)
- Links to CO2 reduction (Climate change mitigation) and the Paris agreement i.e. the energy transition.
- issues regarding the relationship between IED, BPR, REACH, etc. and the WFD; including incompatibility between the respective objectives of these instruments including in relation to invasive alien species (i.e. which is worse, invasive non-native species introductions or the risk of contamination associated with anti-foulant use?)
- diffuse pollution issues are relevant to port estates; in Rotterdam for example industry is taking in water that does not meet WFD standards (due to legacy groundwater contamination) but it has to be discharged to surface waters meeting WFD objectives; this raises questions about the cost-effectiveness of measures
- a consequence of setting less stringent objectives in upstream water bodies is that there are consequences downstream; contaminants are transported between water bodies and across boundaries between Member States; sediment acts as a contaminants' sink.

KK mentioned that CCNR infrastructure providers are encountering problems with demonstrating OPI, which can be difficult to understand. JB noted the recent publication of the Article 4(7) CIS guidance document 36, which may help with understanding the requirements of this test. KK also stressed the importance of integrating the provisions of the WFD into the planning phase of a project; and noted that the incompatibilities between the provisions of the WFD and the TEN-T exemptions process.

EM remarked that some of the rulings from the ECJ do not sit easily with the dynamic behaviour of a water body. Status class boundaries may not be compatible with the 'moving baseline' associated with dynamic natural processes and/or climate change.

VC explained that the Fitness Check has to determine whether the implementation of the Directives is efficient, effective, provides EU added value, is coherent, and relevant. NAVI TG members felt that many aspects have been effective (e.g. attention has been drawn to the ecological value of waters; to transboundary cooperation*, etc.) but not always efficient (e.g. measures are sometimes sub-optimal because of scale considerations, or timing issues where short-term gains may take precedence over longer term more sustainable solutions).

* Although HR noted that on the Elbe, inconsistencies between upstream countries' implementation means there are consequences for downstream countries.

ME observed that there are sometimes governance issues e.g. where organisations are dependent on public organisations that have to meet certain WFD goals.

VC requested that NAVI members provide specific examples to support their arguments. She also confirmed that it is possible to upload documents via the website consultation pages as supporting evidence.

6. Minutes of last NAVI TG meeting and matters arising

The minutes of the NAVI TG meeting of 17th April 2018 were reviewed. Follow up actions included:

- an outstanding action on AW to provide notes on the relationship between the WFD and the IED. **Action: AW**
- Action Plan for Nature and review of Habitats Directive Article 6(3) and 6(4) methodological guidance: SR reported that a first draft of the latter is currently out for review. **Action: SR to keep NAVI TG members updated on both**
- HR reported that following the HPA legal opinion, work is being undertaken to raise awareness of the consequences of inconsistencies in the application of the WFD exemptions. HPA is hoping to get key stakeholders 'on side' to be able to address some of the issues collaboratively. Hamburg is taking over as Chair of the national river basin commission, so this may bring opportunities for dialogue. **Action: HR to keep NAVI TG members updated**

The other action items in the notes were either included on the agenda or have been superseded.

7. SCG meetings

a. SCG 17th May 2018

JB explained the main topics at the May 2018 SCG meeting of relevance to the sector were the introductions to the Fitness Check, the next CIS Work Programme and the Water Conference.

Regarding the Watch List, EM noted that there is an issue with a moving baseline in respect of sediments. WG Chemicals is still discussing methodologies for sediment monitoring e.g. passive sampling vs something else. There is a growing realisation that this is different to water sampling, is complicated, and there can be different outcomes.

b. SCG 8th November 2018

JB highlighted that:

- COM intends to publish their assessment of Member States' RBMPs by the end of 2018. COM seems to have consulted widely with MS in preparing this report, but not with stakeholders so we do not yet have an insight into the outcomes. **Action: JB to circulate the link to the assessment once it is available**
- Water Directors are preparing a paper on future water policy. The environmental NGOs have expressed concerns about whether this is procedurally correct given the role of WDs in the CIS process. The SCG Chair engineered an opportunity for stakeholders to comment on the final WD paper such that WD can also consider these comments when they meet. **Action: JB to circulate the WD paper when it is available in case NAVI TG wishes to react**

The 2019-2021 CIS Work Programme was discussed and largely agreed at the SCG meeting. The programme contains many activities of relevance to NAVI TG, including

- climate change and a new Economics Task Group (the latter to include consideration of ecosystem services) under the SCG and
- sediment management, plastics and invasive alien species under ECOSTAT.

As there were no objections at the SCG to the inclusion of sediments in the ECOSTAT work programme, ECOSTAT members have been asked to indicate their interest in attending a joint workshop with SedNet in Dubrovnik, 1st and 2nd April 2019. **Action: JB to advise Jos Brils when confirmation is received from WvdB**

JB was unable to stay to the end of the SCG meeting to discuss the activities proposed under WG Chemicals but these are expected to include the exchanges of good practice on sediment monitoring, on microplastics, and on climate change adaptation.

c. Integrated assessment of second RBMPs

JB reported that the first day of this workshop (held in Brussels on 6th – 7th November 2018) was of little value, but that discussions on the second day were more useful. Specifically, the topics on the second day included: a prioritisation by those attending of a series of statements relating to areas for improvement of WFD implementation; themed discussions on how policy integration, including with

the MSFD, can be improved; and an exchange on legacy issues and how these can be (better) dealt with under the WFD. **Action: JB to circulate the consultants' report of this workshop when it is available**

8. CIS activities

a. Significant adverse impacts on use or the wider environment (SAIOUoWE)

A written record had previously been circulated of the 23rd April workshop, held to discuss how to assess whether measures intended to achieve good ecological status (GES) or potential (GEP) might have a SAIOUoWE. It was acknowledged that this is a key consideration for the sector.

b. ECOSTAT and meeting of Ad Hoc Task Group on Hydromorphology

JB had circulated a written note of the 31st May meetings, the outcomes of which have since been overtaken by the October meeting outcomes.

c. ECOSTAT meeting

JB explained that the most recent meeting of ECOSTAT on 23rd October discussed the draft of the Appendix to CIS Document 4. This new document will provide additional guidance on the process of determining GEP, including using the mitigation measures ('alternative' or 'Prague') approach. JB has been actively involved in the development of this guidance, not only as an expert in the field but also on behalf of NAVI TG insofar as there is no other navigation expertise in the core group. The latter role has included helping to ensure that the interests of the sector are reflected in a pragmatic way, for example with regard to the range of potentially appropriate mitigation measures; what might constitute a significant adverse effect on use, etc.

Other than clarification on a question about when sediment supplementation is 'less sustainable' (i.e. confirming that it is not appropriate to present this as representing good practice in the context of best approximation to ecological continuum) NAVI Task Group members had no objection to the comments proposed by Jan Brooke. **Action: JB to forward comments to COM's consultant**

d. Working Group Chemicals

EM reported on the meeting of WG Chemicals on 16th October 2018, noting that Member States put a lot of effort into the development of the effect-based methods and the work on metals. The former is now published albeit it that further work is likely to be needed to screen or otherwise rationalise the 130 effect-based methods described in the report. EM also noted that NGOs in WG Chemicals are insisting that work takes place on pharmaceuticals and on microplastics.

9. Related activities

a. European Sustainable Shipping Forum / scrubbers

SR reported that the Commission will decide soon which organisations will participate in the ESSF for a new 5-year term. Once the new ESSF is set up, it will decide which new sub-groups will be established or which existing ones will carry on. Discussion on scrubbers is likely to continue under one of the new sub-groups. SR also reported that France is considering banning the discharge of wash water from OLS. **Action: SR to keep NAVI TG updated**

b. SedNet update

ME reported that SedNet has received more than 120 abstracts for the forthcoming conference. An additional session on plastics has been included on the programme and there will also be discussion on ballast sediments. It is proposed to hold a SedNet-ECOSTAT sediments workshop in Dubrovnik on 1st/2nd April 2019, immediately before the conference.

New and existing SedNet Working Groups include sediment quantity, and sediments in the circular economy. The SedNet website will include dedicated pages for the Working Groups. Working Group outcomes will be made freely available on the website.

c. INBO Invasive Alien Species workshop

JB's summary of the 17th October 2018 INBO workshop on IAS was noted. It was highlighted that there is likely to be greater attention paid to IAS in the WFD given that both IAS and climate change are topics for the 2019-2021 CIS Work Programme.

10. Other business

a. Horizon Europe research ideas

KdS explained that ideas for future EU level research (the 2021-2027 programme) should include research related to both vessels and infrastructure; ideas could include climate change as well as WFD topics. KK asked that short term and longer-term needs should be differentiated. **Action: all to advise KdS directly and ASAP which are short term needs and which are longer term topics**

A brainstorming session highlighted the following possibilities as topics for European research in the coming years:

- improve understanding of the air quality impacts of the inland fleet in urban areas; i.e. the (percentage) contribution of SO_x, NO_x and particulate matter associated with the inland waterways transport as opposed to other transport modes
- understand the role of sediment in the context of the circular economy (including opportunities for sediment life cycle management, sediment use and re-use)
- the end use of abandoned inland water recreational boats in the context of the circular economy
- energy transition options in ports and on the port estate (including CCS options)
- mitigation measures including low or no carbon options for shipping
- practical options for managing saline intrusion in a climate change context.

ME asked how ESPO might put forward additional ideas. **Action: MS to contact KdS for advice**

b. MSFD update

There was no update. The next MSCG meeting will be on 15th November. JB will attend and prepare an overview note of the main issues. **Action: JB to circulate note, also to MSFD NAVI members**

11. Date of next meeting

It was agreed to keep 22-23 January free in case another meeting with COM's consultant is required. Otherwise the WFD NAVI Task Group will next meet in March or April 2019.