

Water Framework Directive Navigation Task Group: Virtual Meeting
Start at 0930 hours GMT/1030 hours CET
Friday 27th November 2020

DRAFT Meeting Notes

In attendance:

- Jacob Armstrong, EFIP
- Jan Brooke, PIANC, Chair
- Katherine Cronin, MSFD NAVI TG Chair
- Marc Eisma, ESPO
- Kai Kempmann, CCNR
- Erik Mink, EuDA
- Karin de Schepper, INE
- Philip Easthill, EBI
- Phil Horton, EBA
- Valter Selén, ESPO
- Volker Steege, CEDA
- Sonja Wild-Metzko, CEDA
- Albert Willemsen ICOMIA

1. **Welcome, introductions, apologies** (JB)

Participants introduced themselves; new representatives were welcomed.

2. **Minutes of last meetings and matters arising not elsewhere on agenda**

a. Last NAVI TG meeting (15th October 2019) (**Annex 1**)

i. Item 3 Fitness check outcomes¹ (JB)

JB explained that COM will not open up the Water Framework Directive for review notwithstanding Member States' concerns (amongst others regarding the 2027 deadline and the difficulties that will inevitably cause if it is not practicable to put in place measures/deliver good status in all water bodies by 2027, even allowing for natural recovery).

An exception to this relates to chemicals, where revisions will be made 'to keep up with the science' (see Annex 6, notes of November 2020 SCG meeting)

VSt noted that DE has received a pilot letter detailing a long list of areas where there are WFD failures; it is anticipated that most MS will receive such letters.

ii. Item 6(c) Nature Action Plan/workshop (EM, VSt, VS)

There does not seem to be any progress with this/ the guide is not published. However, some of the objectives may have been overtaken by the publication earlier this year of the 2030 Biodiversity Strategy.

AW indicated he has some relevant papers that he will circulate **Action: AW**

¹**Outcome:** the WFD's objectives have not yet been fully reached. This is largely due to insufficient funding, slow implementation and inadequate integration of WFD/env objectives in sectoral policies; it is not due to a deficiency in the legislation. **Water Fitness Check (SWD):**

[https://ec.europa.eu/environment/water/fitness_check_of_the_eu_water_legislation/documents/Water%20Fitness%20Check%20-%20SWD\(2019\)439%20-%20web.pdf](https://ec.europa.eu/environment/water/fitness_check_of_the_eu_water_legislation/documents/Water%20Fitness%20Check%20-%20SWD(2019)439%20-%20web.pdf)

Water Fitness Check web page:

https://ec.europa.eu/environment/water/fitness_check_of_the_eu_water_legislation/

KdS highlighted (from discussions in the context of the Danube Joint Statement) that COM intend to produce guidance on free-flowing rivers and provide technical support on e-flows.

iii. Item 6(d) Exemptions workshop (**Annex 2**) (JB)

JB reiterated the exemptions workshop outcomes (see Annex 2), notably the ongoing lack of consistency between MS in applying the WFD exemptions, and the outstanding uncertainties associated with their use, including to end, and beyond, 2027. JB also noted COM's post-Fitness Check position i.e. that Article 4(4) cannot be used to extend deadlines beyond 2027 other than where natural recovery takes time.

3. **CIS ECOSTAT activities**

a. Meetings: March 2020* by written procedures; October 2020 (JB) (**Annex 3**)

In addition to the items below, these meetings highlighted the growing attention to invasive alien species (AW endorsed this point) and to plastics. AW stressed the need for improved policy coherence, including on IAS and other biodiversity issues.

b. Guidance No 37 (JB) (**Annex 3**)

CIS Guidance 37 on defining good ecological potential (GEP) for heavily modified water bodies (HMWB) was published earlier in 2020. It is available in English at https://ec.europa.eu/environment/water/water-framework/facts_figures/guidance_docs_en.htm and in other languages at https://circabc.europa.eu/ui/group/9ab5926d-bed4-4322-9aa7-9964bbe8312d/library/68a7807a-7d17-4c7f-94e7-ab3994336430?p=1&n=10&sort=modified_DESC. The accompanying Library of Measures (which has been prepared to ensure that all MS are aware of the range of possible mitigation measures for each modification type is available (only in English) at: <https://circabc.europa.eu/ui/group/9ab5926d-bed4-4322-9aa7-9964bbe8312d/library/67f969f9-5abe-4765-a952-2f8e2bf5b664/details>

Guidance document 37 reiterates, both explicitly and implicitly, that for most water bodies MS should be moving towards a more scientific, reference-based definition of GEP rather than relying on the mitigation measures approach.

c. GEP Intercomparison Exercise (JB) (**Annex 3**)

JB reported the GEP inter-comparison exercise is now underway. This will establish the extent to which there is a level playing field across Member States in defining GEP in HMWBs. Questionnaires are being used to collect the required data from Member States. Unlike the 'intercalibration' of good ecological status, which is science (data and monitoring) based, intercomparison aims to ensure the methodologies being used to establish GEP are comparable.

d. Activity on Sediment Management (JB, AW, VSt, SW-M) (**Annex 3**)

Various NAVI TG members are participating in the CIS sediment management activity, the aim of which is to produce a pragmatic, technical report on sediment management in the WFD. VSt confirmed that progress is being made, but slowly. AW and SW-M will review the draft Chapter 4 (sediment management). VSt is involved in drafting this chapter. EM is involved in drafting and reviewing Chapter 3 (sediment quality), along with a colleague of SW-M from Hamburg Port. JB is involved in drafting and reviewing Chapter 2 (sediment quantity). A full draft report is intended to be finalised in time for discussion at the spring 2021 ECOSTAT meeting.

Whilst progress has been slow, it is nonetheless acknowledged that the exercise has already succeeded in raising the profile of the role of sediments in the WFD.

- e. Invasive species (JB², AW) (see separate attachments from AW circulated with meeting agenda)

JB noted that a new PIANC WG is exploring the implications of invasive alien species for port and waterway infrastructure and operations; also the liability implications.

ICOMINA is creating guidance for recreational craft on invasive alien species threats and measures; this is needed because there is no relevant international convention. AW has circulated various documents on IAS, including an invite to a December 10th METS event. AW also drew attention to the various ongoing activities at the international level (UN, IMO, etc.); and re-stressed the need for improved policy coherence on this issue at EU level. ICOMIA is lobbying DG Sante and DG Env to this end. **Action: AW to continue to circulate relevant papers, links, etc.**

- f. Amber webinar, June 2020 (JB) (**Annex 4**)

JB had previously circulated a note on the AMBER project and the publication of the Atlas. COM does not envisage the related 2030 biodiversity strategy objective of re-establishing 25,000km of free-flowing rivers will significantly impact on navigation. KdS confirmed that this is the case, noting that attention is focussed on the multitude of small dams causing the most damage to ecological status.

4. CIS WG Chemicals activities and related issues

- a. WG Chemicals update and last meeting (EM) (**Annex 5**)

EM reported that it is increasingly being recognised that focusing on priority and priority hazardous substances (P(H)S) does not give a full picture (i.e. is not necessarily representative) of the state of water bodies. Both the P(H)S list and the associated Watch List are being updated and certain substances are being replaced, with an increasing focus on pharmaceuticals and biocides, but this still does not represent a complete tool box. A third kind of instrument is needed to identify wider chemical pressures using e.g. bioassay tests.

COM is under pressure to come up with amendments to the P(H)S lists, to remove some substances and add others, but not all relevant scientific dossiers (needed to justify changes or restrictions) are complete. Most of the substances under discussion are not especially relevant to navigation, but copper and zinc are important, especially to recreational boating.

EM confirmed that discussions are ongoing as to whether historic/legacy pollutants should remain on the list: such substances are candidates for deletion. The question of quantity vs. bioavailability also still remains to be resolved.

The growing gap between the evolving list of WFD substances and those typically measured in sediment has been highlighted as an issue in the UK (JB) and Germany (VS). This may become an issue not because the disturbance of sediments would necessarily contribute to changes in WFD chemical status, but rather because the evidence to 'prove' no effect does not exist locally. EM pointed out that the CIS guidance 25 should be helpful for answering questions in this regard.

Plastics are also moving up the WFD agenda.

- b. PFAS update (EM)

² *Philip J. Boon, Stacey A. Clarke, Gordon H. Copp, 2020. Alien species and the EU Water Framework Directive: a comparative assessment of European approaches. *Biol Invasions*, 22: 1497–1512. <https://doi.org/10.1007/s10530-020-02201-z>
COM will review the Regulation on invasive alien species (IAS) (2014/1143) by 1 June 2021

EM confirmed that PFAS is 'now on the agenda' at WG Chemicals and MS have realised there is an issue, but WG Chemicals has not yet looked at the details. This will need to happen as PFAS is an issue in all MS; these substances have been used over decades and concentrations are increasing.

ME explained that in NL this has been a very big topic for dredging and disposal; also for soil management. Whilst the issue has since been smoothed out, in the beginning controls were very strict (at or below the level of detection) and sediment could not be relocated within port. Now there is more knowledge and the issue is manageable.

VSt circulated the details about an online conference on PFAS. SW-M will try to attend parts of this conference. Jos Brils will present on behalf of SedNet. JB asked if anyone attending could please share any relevant outcomes with the TG. **Action: SW-M; all**

KC mentioned that PFAS is a big topic for superfund sites in the USA, but this means that important technical experience is being gained.

PE has been contacted by an industry group advocating on the issue and engaging with downstream users; anyone interested in following up this contact should email PE (pe@europeanboatingindustry.eu).

- c. Open loop scrubbers: update (EM, JB) (see separate CEDA and IMarEST attachments)

JB provided an update on publications dealing with the impacts of OLS, including the CEDA and IMarEST papers attached with the Agenda, and also the recent advice to the Canadian Government, see Lloyds List 26th November 2020 or https://www.offshore-energy.biz/study-calls-for-ban-and-phasing-out-of-scrubbers-to-protect-the-oceans/?utm_source=worldmaritimeneeds&utm_medium=email&utm_campaign=newsletter_2020-11-26

These confirm that, in many situations, the effect of OLS on water quality is minimal, but there are some significant concerns about the potential impacts on water (and sediment) quality in enclosed water bodies.

5. SCG meetings (*Annex 6*)

- a. November 2019 (JB)

All relevant items from this meeting were covered elsewhere on the Agenda

- b. June 2020 (JB)

All relevant items from this meeting were covered elsewhere on the Agenda

- c. November 2020 (JB)

JB confirmed her understanding that the forthcoming paper elaborating on how the Weser ruling should be interpreted in the case of new waste water treatment works will be prepared by COM; there has been no indication to date of engagement with MS or any planned consultation. EM highlighted that the need for such clarification is inevitable because the science does not support the granularity of status class boundaries. JB also noted the apparent relevance of (water body) scale in this case. **Action: JB to advise TG members when there is any news on this paper**

None of those attending the meeting were able to provide further information on the planned presentation to Water and Marine Directors on waterborne transport sustainability. **Action: JB to check CIRCABC and advise/forward when there is something to report**

6. Ad Hoc Task Group on Economics

- a. Virtual meeting, March 2020 (JB) (*Annex 7*)

JB explained that discussion in this meeting:

- highlighted COM's understanding that a lack of resources is a major factor for MS in implementing measures to reach the WFD objectives
- raised the question of whether physical modifications would be considered as 'pollution' and hence subject to polluter pays / cost recovery arguments, but also
- highlighted that such modifications are provided for in the Directive via Articles 4(3) and 4(7): it would therefore seem inconsistent to apply cost recovery principles to something for which explicit provision is made.

This discussion led to the proposed amendment of the original NAVI TG paper on water use and water services (see item 6c. below)

Importantly, COM concluded the meeting by re-stating that they do not want to repeat previous work on WFD economics (which presumably means they do not want to re-open the water services issue either). Rather they want to 'move in a different direction' - towards identifying additional sources of financing to enable MS to implement additional measures in support of reaching the WFD objectives.

b. Virtual workshop on financing WFD implementation, 6th October 2020 (JB) (**Annex 8**)
This workshop aimed to identify existing and new sources of funding for the implementation of WFD measures: of particular note were: EU funding sources (including under the Green Deal); seeking additional cost-recovery opportunities; and exploring private as well as public funding sources.

c. Update of Water Services Position Paper (JB) (**Annex 9**)

JB introduced the proposed additional explanatory footnote tackling the hydromorphological modifications issue (item 3a. above) and asked for any comments or feedback as soon as possible, including agreement if this is the case. **Action: all**

SW-M noted that there was an ECJ case on the question of water use vs. water service that DE won. **Action: SW-M to circulate reference.** However, the question is now a slightly different one i.e. whether physical modifications are pollution subject to cost recovery. It is suggested NAVI TG takes a position that it is inconsistent to apply cost recovery principles to something for which explicit provision is made in the Directive

VSt acknowledged that MS indeed need to take more opportunities to recover monies via the cost recovery principle if the WFD goals are to be met.

7. Current COM consultations

- a. EU Action Plan Towards a Zero Pollution Ambition for air, water and soil (all)
<https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12588-EU-Action-Plan-Towards-a-Zero-Pollution-Ambition-for-air-water-and-soil> Public consultation open 11 November - 10 February 2021

JB highlighted COM have confirmed, in response to an intervention by SedNet, that sediment will be considered in the Zero Pollution Strategy. However, this message may benefit from being reiterated.

JB asked whether the NAVI TG should submit a response to the consultation (in addition to the responses being submitted by TG member associations): it was agreed that NAVI should do this. JB therefore requested that short (bullet point) key messages for inclusion in our response should be forwarded by 15th January 2021.

After some discussion, it was also agreed that the best approach should be to complete the questionnaire, but likely with 'don't know' responses to many questions, then upload/attach the WFD NAVI TG statement at the end as well as submitting the statement directly to COM.

- b. Protecting biodiversity: nature restoration targets under EU biodiversity strategy (including legally binding nature restoration targets) (all)

<https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12596>
Roadmap open until 2 December 2020. Public consultation period fourth quarter 2021

Should NAVI TG respond? AW was keen but the overall conclusion that we should wait to see the detail of the consultation.

- c. Healthy soils – new EU soil strategy (all). <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12634-New-EU-Soil-Strategy-healthy-soil-for-a-healthy-life> Roadmap open until 10 December 2020. Public consultation period third quarter 2021

Should NAVI TG respond? AW was keen but the overall conclusion that we should wait to see the detail of the consultation.

- d. Other?

KK mentioned the consultation on the green taxonomy delegated act (https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12302-Climate-change-mitigation-and-adaptation-taxonomy#ISC_WORKFLOW). It was agreed that this is an initiative to which individual organisations may respond but a NAVI TG response is not appropriate. EuDA is participating and has assigned an expert to this work. KdS highlighted that any comments or objections should be channelled to MS finance departments before 18th December 2020.

8. Other business

- a. Mission Starfish 2030 (JB) (**Annex 10**; <https://op.europa.eu/en/publication-detail/-/publication/672ddc53-fc85-11ea-b44f-01aa75ed71a1>)

JB highlighted the outcomes of the NAVI TG response. It remains unclear exactly how this report will be used (e.g. feeding in to Horizon Europe?), but continued vigilance will be useful.

- b. Good Navigation Status (GNS) state of play (KK)

KK will circulate his presentation on the current status of GNS as an Annex to these meeting notes (**Action: KK-JB**) but confirmed that the setting of GNS is still very much 'Work in Progress'. A more mature version of the report should be available for discussion at the next meeting of NAVI TG in spring 2021.

- c. Danube Joint Statement 11th Meeting Report (KdS) (see separate attachment)

KdS highlighted the importance of the report by the Sava-Danube-Danube Commissions (i.e. the joint statement) as a cooperation mechanism for approaching inland waterway projects and what needs to be done. A fuller report can be provided to the next NAVI TG meeting – maybe with an invited presentation. **Action: KdS-JB**

- d. Biodiversity Strategy (JB; all) (see **Annex 3** Item 5)

There was nothing urgent to report on the 2030 Biodiversity Strategy but KdS highlighted the importance of monitoring progress as there are aspects that could affect the sector,

- e. Action Plan for Nature – update (EM/VSt)

See item 2(a)(ii) above.

- f. Extension of scope of WFD NAVI Task Group (AW)

AW agreed to draft a note summarising the ICOMIA proposal to broaden the scope of work of the WFD NAVI TG, including the growing interactions between different pieces of (EU) legislation. **Action: AW.** JB noted that any significant extension in scope could have implications for the

resourcing and management of the Group given its current objectives and mandate. It was agreed that this will be discussed at the next NAVI TG meeting.

g. SedNet activities (ME)

ME to be asked to provide a brief written update. **Action: ME-JB**

9. Date of next meeting

Likely March 2021. **Action: JB and KC to discuss**