

## **Position of the EU Waterborne Transport Infrastructure Sector on the EU Water Framework Directive Fitness Check**

The WFD Navigation Task Group (WFD NAVI) comprises a thematic cluster of associations and organisation with interests in commercial and recreational maritime and inland waterborne transport infrastructure. Its members include:

- PIANC, the World Association for Waterborne Transport Infrastructure
- CEDA, the Central Dredging Association
- European Barge Union
- European Boating Association
- European Boating Industry
- European Dredging Association
- European Federation of Inland Ports
- European Sea Ports Organisation
- ICOMIA, the International Council of Marine Industry Associations
- Inland Navigation Europe
- European Inland Waterway Transport (IWT) Platform

WFD NAVI's contributions to the ongoing 'Fitness Check' have identified the following areas in which the waterborne transport infrastructure sector believes modifications or improvements are required to ensure clarity, to improve the effectiveness of WFD implementation and, ultimately, to ensure that the WFD meets its objectives.

Our main area of concern, and a focus of this paper, relates to the role of sediments in natural aquatic ecosystem. In addition, the paper highlights a number of other issues of specific relevance to the waterborne transport infrastructure sector, and various horizontal issues of general importance.

### **Sediments**

The essential role of sediments in natural ecosystems, in particular their contribution to meeting the WFD's ecological objectives, is currently inconsistently acknowledged in the Directive, and inadequately addressed in its implementation.

WFD specifications and implementation must better recognise the important natural role of sediments in aquatic systems, whilst also acknowledging the need for several 100 million cubic metres of sediment to be dredged annually in Europe to provide safe depths for waterborne transport. Sediments play an important role in achieving the WFD ecological as well as chemical status objectives. Natural, hydromorphologically important, upstream-downstream (or marine to freshwater) sediment flows, sediment quantity, and sediment balance are all crucial to meeting the WFD ecological objectives. These processes can be interrupted when physical infrastructure prevents the natural transport of sediment through the system, with potentially significant implications for the achievement of good ecological status or potential.

The inclusion of sediment measures in RBMPs (River Basin Management Plans) should be a prerequisite for achievement of the WFD ecological and chemical objectives. The question of river basin wide sediment management, including transboundary sediment movements from one water body to the next and finally to the sea, is not properly addressed yet in the majority of RBMPs.

Sediments act as a sink for contaminants. The sediment-water relationship needs to be properly recognised, especially in relation to the downstream transport of contaminated sediments that are released from former industrial sites or mining areas, or resuspended and relocated during flood events. Furthermore, many Member States overuse exemptions, or apply them inconsistently or inappropriately. Along with authorities that disregard the pollution of sediments, this results in problems for Member States or users downstream, and ultimately for the marine environment.

Furthermore, when exemptions are applied inconsistently or inappropriately by Member States or where upstream authorities disregard the pollution of sediments, this causes problems for the Member States or users downstream and ultimately for the marine environment.

RBMPs are intended to provide effective management at the scale of the river basin, *inter alia* covering all the actions needed to achieve improved source control upstream. However, inconsistencies in implementation, and a focus on single water bodies instead of on coherent management, hamper this approach. This has serious implications downstream, including for those responsible for the waterways and seaports who have to handle the contaminated sediments with increasing effort and expense as they must meet certain standards and the objectives of the MSFD.

The Environmental Quality Standards Directive (EQSD) does not consider pollutants in sediments. This is a major deficit as many important pollutants have a high Octanol-Water-partition coefficient ( $\log K_{ow} > 3,5$ ) which means that the solid phase is the most relevant environmental matrix. Sediments are not usually a reliable indicator of current water quality; rather, they are the "memory" of the river's pollution". However, to date this has not been recognised by those preparing the RBMPs. We face a "sediment blindness" in WFD implementation where those who would be responsible for remediation measures can point to the EQSD because this focuses only on the water phase where most of the pollutants that cause an effect on sediment quality cannot be found.

The WFD NAVI Task Group welcomes the recent initiative to prepare sediment management guidance via the ECOSTAT Working Group but is concerned that this may not be sufficient to ensure integrated river basin wide management that also considers the improvement of sediment qualities. Legal revision of the WFD might therefore be necessary.

### **Understanding the true costs of inaction**

Related to the above point, many existing RBMPs fail to include a river basin wide socio-economic and cost-benefit analyses for WFD implementation. There seems to be a reluctance to develop and apply methods to understand the full range of benefits of WFD measures, particularly when it comes to understanding and taking into account the costs of inaction - not only with regard to meeting the objectives of the WFD but also the MSFD. The WFD requirements to identify "cost-effective combinations of measures" and to demonstrate cost "disproportionality" (Articles 4(4) and 4(5)) are often either absent or relate only to single water bodies instead of taking a river basin wide perspective.

### **Other issues related to chemical status and specific pollutants**

The list of priority substances and their corresponding quality standards was updated in 2013. For some substances the standards were set below the current detection limits. This makes it impossible to establish whether or not these substances are in compliance. For practical implementation purposes, it is essential to consider the availability of appropriate detection techniques.

The WFD differentiation between priority and priority hazardous substances (for chemical status) and river basin specific pollutants (for ecological status) appears to members of WFD NAVI to be both artificial and unhelpful. No such distinction is made when sampling and analysing sediment quality in accordance with international guidance, for example prior to dredging in accordance with the requirements of the OSPAR, HELCOM or London Conventions.

### **Policy coherence**

In addition to the WFD, many WFD NAVI member associations deal with the Industrial Emissions Directive (2010/75/EU), the Biocidal Products Regulation (528/2012), REACH, the Waste Framework Directive (2018/851/EU), the Nature Directives (2009/147/EC and 92/43/EEC), and the Marine Strategy Framework Directive (2008/56/EC). There is frustration about the lack of policy coherence between these instruments, including inconsistencies,

overlaps and opposing trends. We note different approaches on exemptions, and sometimes incompatible differences between policy objectives (clean environment vs. sustainable transport, environment policy vs. industrial policy, human health vs. environmental health).

WFD NAVI sees an urgent need to improve coordination between EU industrial, climate, transport, environmental, and energy policies as well as the implementation processes for the respective Directives or Regulations. Inconsistencies in their objectives should be addressed, and their cumulative cost effects recognised. This issue goes beyond the periodic fitness checks of specific Directives: EU policy needs a holistic approach with harmonised high-level objectives that are founded on systematic and structured, multi-disciplinary dialogues between the relevant DGs.

More specifically insofar as the navigation sector is concerned, our members have identified coherence issues associated with aspects of air and water quality policy; and also in relation to wider sustainability questions related to transport policy and energy policy. In particular:

- the potential implications for water and sediment quality of the discharges from open loop scrubbers, which are being used by vessels to ensure compliance with sulphur limits;
- the standards set for PAHs (polycyclic aromatic hydrocarbons) in the air and those set for water: although concentrations of PAHs in the air are in compliance, studies reveal that the elevated concentrations of PAHs in the water, exceeding the standards, are caused by atmospheric deposition
- the compatibility between environmental policy and transport policy initiatives intended to move more freight to Europe's inland waterway transport – which is generally regarded as an environmentally preferable transport option. We see an urgent need to reconcile the WFD objectives and those under TEN-T for inland waterways (e.g. achieving Good Navigation Status and Good Ecological Status at the same time)
- similar compatibility issues relating to policies promoting renewable energy, notably hydropower, and the requirement to meet WFD objectives – in this case in relation to the critical natural role of sediment transport in reaching good ecological status, as discussed above.

### **Transitional and coastal water bodies**

WFD implementation in surface water bodies has focused particularly on rivers and fresh waters. In practice, insufficient attention has been given to transitional and coastal water bodies. In addition to discrete technical/scientific issues, for example with regard to sampling and analytical processes in TraC waters, this lack of attention manifests itself in the relationship between the WFD and Directive 2008/56/EC (the EU Marine Strategy Framework Directive). There should be stronger and more effective links between the two Directives, not only integrated attention to nutrients and contaminants, but also to the links between the WFD hydromorphology and physico-chemical supporting elements, and hydrographical conditions under the MSFD.

### **Horizontal issues: climate change**

Climate change is expected to lead to significant and potentially irreversible changes in certain physico-chemical supporting elements including water quantity, temperature and salinity, with implications for associated reference conditions. It needs to be properly recognised that such changes will inevitably have consequences for meeting the WFD ecological status objectives in impacted water bodies.

The anticipated increase in extreme meteorological and hydrological, for example heatwaves, droughts and water scarcity due to climate change will similarly impact not only on the achievement of WFD objectives, but also on the viability of certain water uses like navigation. Direct effects such as unprecedented low or high flow conditions are expected to be compounded by implications for sediment quality, including increased concentrations of contaminants from point sources if there is insufficient runoff, or the resuspension and transport of legacy contaminants associated with extreme flood events.

Overall, therefore, WFD NAVI believes that greater attention needs to be paid to the wider implications of the changing climate for WFD implementation.

**Horizontal issues: one-out-all-out**

WFD NAVI member associations are concerned that reference to the 'one-out-all-out' principle in determining water body status acts as a disincentive for action to improve status in water bodies where significant measures are needed to reach the WFD objective. This is especially an issue in encouraging industry to take small measures which, collectively, may eventually contribute to a status class improvement but which, alone, make such a small contribution as to become inconsequential.

**Horizontal issues: 2027 deadline**

WFD NAVI member associations regard the 2027 deadline as unrealistic and potentially counter-productive. As a sector, we have seen many innovations over recent years that have helped to reduce the impact of our activities and/or have led to significant local improvements in water status. The idea that WFD measures need to be in place before 2027 to deliver improvements thereafter removes some of the incentive to continue to promote such innovation; it also militates against ongoing incremental investment in enhancement measures in situations where a one-off investment is disproportionately costly.

**In conclusion...**

As a sector, WFD NAVI believes that there are many opportunities to enhance the integration of river basin management to improve ecological and chemical status in European river basins, and to contribute to achieving the objectives of both the WFD and the MSFD whilst also improving coherence between the WFD and other policy instruments. In particular, measures aimed at the qualitative and quantitative improvement of sediments will help to reduce both Member States' ecological follow-up costs, and the management burden for sectors such as navigation, that currently bear the cost of ineffective WFD implementation.

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