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Fitness Check of EU Freshwater Policy

The Blueprint for Water is a unique coalition of UK-based environmental, water efficiency, and fishing and angling organisations to call on the UK Government and its agencies to set out the necessary steps to achieve “sustainable water” by 2015. The Blueprint for Water is a campaign of Wildlife and Countryside Link.¹

This response is supported by the following eight members of the Blueprint for Water:

- Angling Trust
- Buglife – The Invertebrate Conservation Trust
- The Rivers Trust
- Royal Society for the Protection of Birds
- Salmon & Trout Association
- Waterwise
- Wildfowl and Wetlands Trust
- WWF-UK

1. Relevance of EU Water policy

The current EU legal and policy framework for water issues is well designed and should address challenges and emerging issues if implemented competently by Member States. However, the European Commission (EC) should assist by providing additional tools to help implementation and delivery of agreed objectives.

The Water Framework Directive (WFD) has a broad scope and allows for adaptive management whilst enshrining the ‘One out all Out’ principle and the underlying requirement of ‘No Deterioration’.

A key success of EU water policy has been the Common Implementation Strategy (CIS) process, which has provided guidance and an opportunity to exchange experience, and this novel approach should be adopted in the implementation of future Directives. However the voluntary nature of the guidance, and the remote chance of infraction, means the documents have little teeth,

Implementation of the legal framework varies and depends upon:

- The political willingness of Member States to implement EU Law where that goes beyond Business as Usual model
- The availability of funding and other resources to allow implementation to proceed

¹ Wildlife and Countryside Link is a umbrella body bringing together 37 UK-based voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Taken together our members have the support of over 8 million people in the UK and manage over 690,000 hectares of land. For more information: www.wcl.org.uk.

- Capacity in EU institutions to identify and pursue Member States' failure to implement legislation.

Water Quality

With regard to delivering water quality objectives, there are no significant gaps in the overall body of EU law. Major pollutant sources are addressed by the Nitrates Directive, Urban Waste Water Treatment Directive (UWWTD) and WFD. Again, issues come down to Member States' delivery rather than EU law. In this respect the flexibility offered by the WFD in defining objectives and measures has come at a cost of inaction and delay.

Methods in place to capture emerging pollutants is adequate with the rolling review of Priority Substances by the EC and use of Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), but more emphasis should be placed on allowing the EC to decide on these substances with the European Environment Agency's recommendations based on best available science. In order to best achieve the EC's aims of co-ordinating controls of specific pollutants, implementation and further policy development is required through REACH, pesticides law, Industrial Emissions Directive, the Common Agricultural Policy (CAP) and other funding policies. The Commission must ensure that this process is robust, with an appropriate identification of problem specific pollutants and appropriate Environmental Quality Standards.

Steps should be taken to ensure that the thresholds established by Member States for groundwater pollutants are robust and provide sufficient protection for aquatic ecosystems and water used for drinking.

Water Quantity

WFD, by virtue of its 'Good Status' requirement, should also address water quantity more explicitly than at present. WFD is a driver for water quantity, but the issue has not been adequately addressed at national or River Basin Management Plan (RBMP) level. The EC should urgently address this through providing guidance on minimum flows needed to achieve Good Ecological Status (GES) and Good Ecological Potential (GEP).

Regarding water efficiency the EC should develop relevant building standards together with specific product standards. There are also obstacles to the re-use of treated waste water in both agriculture and the water industry.

Climate Change

There are important challenges represented by climate change, but it should be recognised that the legal objectives arising from the WFD will not detract from these challenges and we would not want to see a lowering of objectives on the basis of climate change. Instead they will assist in providing resilience to River Basins and ensuring any decisions to increase supply/ transfer water are made in a way that respects environmental thresholds and applies rational analysis of environmental, economic and wider impacts. The inclusive and cyclical decision making framework for WFD is an essential component of climate change adaptation.

Funding available from climate adaptation projects would provide opportunities to invest in relevant water projects aimed at increasing resilience of water bodies by aiding the achievement of GES at the earliest opportunity.

2. Coherence of EU Water Policy

Coherence of WFD with other EU water policy instruments

In general, the objectives of the WFD and other instruments covered by the Fitness Check are well-aligned, in accordance with the general theme running through this response; mis-alignment occurs at Member State implementation level. At a national level there are discrepancies within reporting cycles both with respect to European requirements and internal national legislative requirements which hinder forward planning and increase administration costs. Re-alignment of these cycles would be welcomed but should be done to coincide with WFD reporting only.

RBMPs should be a powerful tool to integrate the WFD and related policies covered by the Fitness Check together with internal national policies, but this ambition is not being realised. Linking RBMPs more strongly with financial mechanisms and economic instruments as well as enhancing stakeholder involvement and communication are necessary steps to improve the effectiveness of RBMPs and enhancement of smaller catchment work should provide building blocks for this process.

There are also consistency issues between the Marine Strategy Framework Directive (MSFD) and the WFD, which have different definitions of good status. This has implications for monitoring, reporting and the interaction of coastal and inland waters regarding nutrient pollution and fish migration. A stronger common implementation plan is needed which will require more than the present plan of back-to-back meetings at Water Director level.

Coherence of freshwater policy with other relevant environmental policies

A direct trigger is required for action between the WFD, Environmental Quality Standards Directive (EQSD), the Directive for sustainable use of pesticides and REACH when research identifies problems of water quality with chemical substances, priority substances and pesticides with REACH incorporating an ecosystem impact as well as a focus on human toxicology.

The Industrial Emissions Directive (IED) presently allows discharge according to the resilience of the receiving media as opposed to the WFD, which assesses environmental impact and aims at GES. There is therefore an opportunity to re-align IED to take into account WFD objectives.

Better integration of policies and achievement of WFD can be achieved by better use of Strategic Environmental Assessment (SEA) in order to assess cumulative and synergistic impacts surrounding spatial planning and land use.

Coherence of freshwater policy with sectoral policies

- There is greater need for alignment in these areas; CAP is the area of greatest concern with only lip service being paid to the adverse affect on water bodies by the agricultural sector. Greater integration of water requirements should be placed under cross compliance thus providing a baseline for greening CAP.
- Better targeting of Cohesion and Structural Funds towards local needs is required and better co-ordination between policy process and the time when funding is received.

- There is a divergence of objectives between the Directive on Renewable Energy Sources and EU water policy: the pressure to add new hydropower capacity impacts on WFD objectives, and policy drives to increase bio-energy crops are starting to show an adverse impact on water quality improvements gained under the Nitrates Directive in some Member States.
- Coherence of policies concerning geothermal and related groundwater pollution together with mining impacts, including the new drive for shale gas exploitation is required.

3. Effectiveness of EU water policy

The effectiveness revolves around the implementation success by Member States as opposed to EU water policy per se.

Achievements of EU water policy vis-à-vis objectives

Water policy has been a driver for improvements, in most of the EU UWWTD and Bathing Waters Directive have delivered clear results with the public supporting improvements to the chemical quality of waters due to the treatment of waste water in recent decades. However, this success has not been reflected in reductions in diffuse pollution from agriculture and urban areas.

Environmental objectives under WFD are good and necessary to focus Member States' activities in this sector and should not be lowered in terms of their ambition; the implementation of the WFD overall needs to be reinforced, for example the economic analysis of water uses and cost benefit analysis. The first RBMPs are characterised by a diverse (generally low) level of ambition and limited progress will be made in reaching the environmental objective of good status. The EC should play an active role in EU-wide prioritisation of key measures which should be followed up in a tighter timeframe than presently in the cycles focusing on longitudinal continuity, diffuse pollution, minimum ecological flows, water scarcity/ drought measures and sediment transfer.

Reasons for poor implementation of EU water policy

- Lack of poor sectoral integration, especially in the preparation of the first RBMPs from objective setting to the planning of measures.
- Gaps in financing the implementation of EU water policy (e.g. for WFD measures to address agricultural and hydromorphological pressures) which may become more acute in view of the current economic crisis.
- Limited capacity of national/ regional water authorities (e.g. in terms of manpower) to implement measures. The limited capacity of authorities also limits the capacity for proper enforcement of water policy on the ground.
- Knowledge gaps
- Governance problems, especially the lack of adequate involvement of local authorities in the implementation of EU water policy. A real effort should be made to ensure that the EU water policies are mainstreamed as the core element in the water management of the Member States at all relevant levels: national; regional; river basin; and local.

Solutions to address problems in effectiveness and implementation

- Sectoral integration needs to be improved, including improving co-ordination of sectoral parts of the administration of Member States, e.g. between different sectoral Ministries.
- EU funding (available for different sectoral activities) should be better aligned to water issues. Efforts should be put into prioritising spending on water to support the policy objectives.
- The implementation of cost recovery in the water management sector should be improved and made more transparent. This is potentially an important source of funding that is currently not fully exploited.
- Periodic exchange of experience on a more practical level involving river basin and local authorities should be promoted at the European level within the CIS process.
- Public participation should be improved to gain more public support for the necessity of further water management action in view of the current economic crisis.
- The evaluation of the first RBMPs should be used as a key source of lessons learned and good experience from the first planning cycle of the WFD to feed in to second cycle planning.

4. Efficiency of EU water policy

Efficiency of administrative co-operation and policy co-ordination

WFD has provided improvement in terms of coherence in EU water policy by bringing policies together and for setting objectives with a high-level perspective. Water policy in most Member States is implemented at different administrative levels and includes transboundary basins; the required co-ordination has been hindered by the different degrees of understanding, prioritisation for implementation of measures and funding. Nevertheless some progress has been achieved so far and efforts need to continue.

Enforced transmission of adequate information, transparency and communication between different administrative layers, from EU to river basins and catchments, would have provided better implementation. In particular, this would ensure coherence between planning, implementation and funding of measures. Frequently planning, decision, funding and implementation are responsibilities of different managers/ administrations which do not properly co-ordinate their actions, and there is thus a need to identify and share priorities amongst all layers of the decision and implementation chain.

At EU level, objectives and strategies are not sufficiently shared between sectoral policies in terms of sharing priorities, prioritising funding and making the best use of limited resources available; this is mirrored down the implementation chain.

In some Member States the implementation burden is determined by governance traditions (e.g. administrative, conceptual and previous situation). The implementation may demand a change of approach, practices and traditions in certain countries, but the effort required to bring about this

change is still pending or progressing only slowly. In particular, tradition still plays a major role regarding water use and pricing of water.

Availability of and access to funding

In general, there is a lack of funding for full implementation of EU water legislation at European and Member State level. Member States are reluctant to challenge short term vested interests who have a 'business as usual' agenda, e.g. the agricultural sector, or to fully use the 'polluter pays' principle.

There is a need for better guidelines as to what funds exist and more information as to how to apply for them. Co-ordination at EC and Member State level would assist with this.

Proportionality of compliance costs and administrative burden

The setting up of new administrative structures and re-focusing existing structures on EU water policy (in particular the WFD) is still bedding in but has been at acceptable cost and is beginning to clarify roles across sectors. More clarity around costs will be achieved at the end of the first cycle when 'lessons learned' are fed into the second cycle. It is uncertain at this stage exactly what the administrative cost burdens will be for the second cycle, and they will depend on progress towards objectives and whether Member States attempt to use wide spread derogations for the next cycle. In the United Kingdom, the competent authority is very much focusing on 2027 rather than achievements in earlier cycles.

How can the efficiency of EU water policy be improved?

- Ensuring coherent planning, timing and objectives of funding cycles in different water related sectoral policies.
- Information should be freely and transparently available, in particular to the third sector, and provided at a River Basin level.
- More effort is required in raising awareness of the WFD with water users and other stake holders to ensure water is valued as a commodity.

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