

Brussels, 6 October 2014
Case No: 68789
Event No: 724440

TRILATERAL MEETING
IMPLEMENTATION OF THE WATER FRAMEWORK DIRECTIVE IN NORWAY

12 JUNE 2014 FROM 10.00 TO 17:30 H (APPROX)
AVENUE DE BEAULIEU 5, ROOM BU-5 0/B
BRUSSELS

List of participants:

EFTA Surveillance Authority	Commission	Norway
Gabrielle Somers	Pavel Misiga	Lindis Nerbø (Ministry of Climate and Environment)
	Jorge Rodriguez Romero	Malin Fosse (Ministry of Climate and Environment)
	Evdokia Achilleos	Anders Iversen (Norwegian Environment Agency)
	Lourdes Alvarellós	Jon Lasse Bratli (Norwegian Environment Agency)
	Lucia Bernal Saukkonen	Vegard Haukeland (Ministry of Trade, Industry and Fisheries)
	Ioannis Kavvadas	
	Balázs Horváth	Jørgen Brun (Ministry of Local Government and Modernisation)
	Lukasz Latala	
	Thomas Petitguyot	Inger Staubo (Norwegian Water Resources and Energy Directorate)
	Claire McCamphill	Jonas Landstad Fjeldheim (Norwegian Mission to the EU)
	Marija Simunovic	
	Giovanni Vallera	

The list below is an overview of the proposed actions points intended to inform and assist Norway in the implementation of its first full cycle River Basin Management Plans, as agreed at the trilateral meeting on WFD implementation on the 12th of June with the EFTA Surveillance Authority (“ESA”) and the European Commission (COM).

The numbers correspond to the questions discussed at the meeting. Actions are linked to some of them. If the information provided by Norway was considered to be sufficient for the time being by ESA and the European Commission, no actions were formulated. However questions have been kept without any further comment so that the numbering of the questions is continuous.

Where actions request additional information for clarification or concrete actions by the Norwegian authorities, ESA and the European Commission expect to receive this information or evidence of taking the actions *by 7 December 2014*.

Summary

ESA thanks the Commission and the Norwegian Authorities for their preparations for the meeting and for the fruitful and constructive meeting.

COM introduced Norway to the meeting procedures. COM thanked Norway for the comprehensive and detailed answers to the questions that have clarified in advance a lot of COM questions already.

COM explained the outputs of the meeting: list of actions/recommendations to be sent after the meeting in those areas where the need for improvements has been identified. This will be agreed upon after possible comments by Norway. It will be the basis for possible further steps to take by Norway in order to improve the implementation of WFD.

The following issues have been discussed at the meeting and in COM and ESA's view are the main points intended to inform and assist the NO authorities to ensure a sound implementation of the WFD:

- Review of the designation of transitional waters (Action point 2)
- Handling of hydromorphological impacts (Action points 23-26 and 43-44), including HMWB designation, setting GEP, justification of exemptions and defining hydromorphological related measures such as e-flows
- Handling of biological impacts (Action point 5), including sea lice, escaped farmed fish and alien species
- Application of article 4(7) (Action points 29-33): ensure project by project assessment based on the potential impacts on ecological status (quality element level); justification and conclusions reported transparently in the plans.
- Monitoring (Action points 7-21), including monitoring networks, completion of assessment methods and grouping of water bodies.
- Identifying RBSPs and appropriate EQS (Action point 15).
- Programme of measures (Action point 35-46): a gap analysis needs to be performed to deliver a clear understanding on what is needed to achieve good status. Funding of the measures needs to be secured.
- Consider the use of economic tools to provide incentives to prevent and reduce pollution (Action point 49)

The following sections include more detailed actions/recommendations on these and other aspects, identified on the basis of the discussions at the meeting.

Governance

1. What kind of cooperation is established between neighbouring countries? Are there any agreements and working plans approved? Please summarise the scope of the cooperation with each country and the results expected for the 2015 RBMP in terms of the planning steps (pressure and impact analysis, monitoring, status assessment, setting of environmental objectives, programme of measures, etc).

ACTION 1: Need to show tangible results of the international cooperation in terms of common analysis of pressures and impacts, monitoring, assessment of status, public consultation, measures, etc.

2. Please describe succinctly the permitting process in Norway, i.e. who are the authorities involved in permitting of water abstraction, waste water discharges, physical modification of Water Bodies, sectoral permitting (hydropower, aquaculture), etc. Are permitting authorities legally bound by the WFD objectives? Please make reference to the specific and relevant legal provisions.
3. What is the experience from the public/stakeholder participation process in the development of the pilot RBMPs? What were the main impacts of the participation process on the RBMP? What are the lessons learnt and expected improvements for the first full set of RBMP?

Characterisation and reference conditions

4. Why have transitional waters not been defined nor delineated in any RBD? How estuaries will be considered in the first full cycle?

ACTION 2: NO to reconsider the designation of coastal type 4, 5 and 8 as Transitional Waters and report it in a transparent way in the RBMPs.

5. Have reference conditions been defined for all water types and all Biological Quality Elements? If there are gaps please indicate for which water categories and quality elements and the expected timelines to complete the work.

ACTION 3: NO to check if fish has been used to validate typology. NO to use both Macrophytes and Phytobenthos, under the BQE "Other Aquatic Flora" for Lakes (and only discard BQE where there is evidence that it is not relevant for the WB type).

6. What is the extent of significant pressures? Could you please provide a table with the percentage of surface Water Bodies affected by significant pressures?

ACTION 4: NO to present detailed information in the public consultations and in the RBMPs splitting the percentage of water bodies with significant pressure according to drivers/type of pressures.

7. For which reason biological impact factors such as Gyrodactylus salaris infections, escaped farmed fish and alien species in coastal waters were not taken into consideration when assessing significant pressures?

ACTION 5: NO to explicitly consider biological impacts of salmon lice, escaped farm fish and alien species in the pressure and impact analysis of the first full cycle RBMPs with the available data and set up a plan for improving this

analysis in the next cycle. NO to account for the available information about this kind of pressure in the design of the 2015 PoM.

8. How were point source and diffuse source pressures assessed? What are the main sources and how their impact was assessed?

ACTION 6: NO to use harmonised and transparent methodologies for assessing the significance of point source and diffuse source pressures, making greater use of monitoring data on WB ecological status in order to rely less in expert judgement.

Monitoring and assessment of Ecological Status

On a general context COM stressed that sound and robust monitoring is key for successful implementation. Saving money in monitoring can result in very expensive mistakes. The WFD may represent a significant change compared to the historical monitoring. Cutting resources in monitoring which is easy may however not be wise for the completion of the requirements of the WFD.

9. Have both surveillance and monitoring programme been implemented in the first voluntary pilot period RBMPs? Could you please provide a table with the number of surveillance and operational monitoring sites by RBD and water category?

ACTION 7: NO to adapt existing monitoring networks and expand them in order to ensure that WFD monitoring objectives and requirements are fulfilled, to ensure WFD compliance and consistency of the data produced by the different operators (in particular for the operational monitoring), and to secure the required resources to achieve this.

10. Have all quality elements (biological, hydromorphological and physico-chemical) been monitored in all stations of the surveillance programme? If not, please explain remaining gaps and the plans to fill them (including timeline).

ACTION 8: NO to monitor hydromorphological quality elements in all stations in surveillance network and according to existing pressures in operational network.

11. Which are the quality elements monitored in operational programmes and how have they been selected?

12. What is the percentage of monitored Water Bodies for Biological Quality Elements? How have Water Bodies without direct monitoring been assessed? Has grouping been used and how?

ACTION 9: NO to expand significantly monitoring in order to have more comprehensive and reliable data and to ensure the selection of the most efficient measures in the RBMPs.

13. Have assessment methods for all biological, hydromorphological and physico-chemical quality elements been completed for all WB types? If not, please explain remaining gaps and the plans to fill them (including timeline).

ACTION 10: NO to complete assessment methods as soon as possible for all biological, hydromorphological and physico-chemical quality elements and all WB types

14. The Ecological Status of Water Bodies is to a large extent unknown. Has this been improved since the time of reporting? Please provide the updated assessment.
15. Please provide details of the river basin specific pollutants (RBSPs) now being monitored in each RBD, and their EQS.

ACTION 11: NO to identify the RBSPs and develop EQS consistent with the 2011 TGD.

16. Please explain the basis for the selection of RBSP, i.e. what pressures were taken into account?
17. Are those RBSPs being considered in the assessment of Ecological Status?
18. Has NO used the 2011 CIS Technical Guidance Document to determine/review the EQS for its RBSPs (presumably yes, since used for Priority Substance biota and sediment EQS)?

Intercalibration

19. Have the results of the intercalibration round been translated into national Classification Systems?
20. How is NO planning to complete intercalibration by 2016?

Monitoring and assessment of Chemical Status (surface waters)

21. Please confirm whether all substances and standards listed in Annex I of the Environmental Quality Standards Directive were and are being considered in the Chemical Status assessment in all RBDs. (It is not sufficient for "all substances measured ...to be under the limit for EQS" – unless all substances identified (in the pressures and impacts analysis) as possible causes of failure are indeed measured.

ACTION 12: NO to provide which substances are not monitored because they are not considered relevant and provide the documentation supporting this assessment.

22. Was the assessment of mercury, hexachlorobenzene and hexachlorobutadiene against the EQS in biota? If against an EQS in water, has an equivalently protective water EQS been set?
23. Please provide a list of the biota and sediment EQS being applied.
24. What progress has been made on decreasing the high proportion of Water Bodies in unknown Chemical Status?
25. Regarding the NO class system, what substances are considered to have a natural background (no inputs)? If classes II-V represent increasing degrees of *damage*, how can it be appropriate to place the AA-EQS at or above Class II?
26. Have any Priority Substances caused failure of good status? If so, which, and how frequently?

ACTION 13: NO to design monitoring that will provide enough and reliable information for grouping.

27. Has atmospheric deposition been taken into account in deciding where to monitor Priority Substances?
28. What trend monitoring has been carried out in biota and/or sediment? Have all the substances in Article 3(3) of the EQSD been taken into account?

ACTION 14: NO needs to establish trend monitoring of priority substances in biota and/or sediment in freshwaters.

29. Is NO planning to designate mixing zones and, if so, which methodology will be used?

Monitoring and assessment of Groundwater

30. Have all regions established Groundwater monitoring programmes that meet the requirements of the Water Framework Directive and the Groundwater Directive? Please provide an overview of the state of play.
31. According to which principle are the Groundwater monitoring site locations distributed for surveillance or operational monitoring? What is the actual coverage, the percentage of GWBs being monitored?

ACTION 15: based on the results of the new delineation and characterization a WFD compliant groundwater monitoring needs to be established, focusing on GWBs at risk of not achieving good groundwater chemical or quantitative status. The monitoring network should be representative and able to validate the risk assessment, to determine groundwater status and to detect trends of pollutants.

32. How are/will the parameters be chosen in the operational monitoring programme to detect the existing pressures? Which parameters are monitored in Groundwater?
33. Is the monitoring able to detect significant and sustained upward trends of chemical pollutants?
34. Please provide an overview of the state of play of the status information. Which pollutants put Groundwater Bodies at risk of pollution? How does Norway plan to fill in the information gaps on Groundwater status?

ACTION 16: NO to establish site specific monitoring on pollutants expected to be found due to the pressures identified.

35. (a) Have methodologies been developed for the assessment of Groundwater chemical and quantitative status (considering Groundwater dependent aquatic and terrestrial ecosystems, saline intrusions, etc)? (b) Please provide details of the methodologies. (c) Will these be used in the 1st full set of RBMPs?

ACTION 17: establish and use WFD compliant groundwater status assessment methodologies considering groundwater dependent ecosystems. Use CIS guidance document 18 on groundwater status and trend assessment and the technical reports 6 and 8 on groundwater dependent terrestrial ecosystems.

36. Have methodologies been developed for the establishment of threshold values (TVs) of Groundwater pollutants? For which pollutants were TVs established? Is there a methodology established on how to define acceptable exceedances of TVs?

ACTION 18: establish threshold values (TVs) based on risks identified and define a methodology for acceptable exceedances of TVs.

37. (a) Is there a methodology to assess trends and trend reversals? (b) Please provide details of the methodology. (c) Will this be used in the 1st full set of RBMP?

ACTION 19: establish and use trend assessment and reversal methodologies based on CIS guidance document 18 on groundwater status and trend assessment.

38. Are there transboundary Groundwater Bodies? If yes, please explain the activities on transboundary coordination of their management.

Monitoring and assessment of protected areas

39. Are there plans to develop specific monitoring programmes for the drinking water protected areas in accordance with WFD?

ACTION 20: Ensure monitoring on drinking water sources is according to article 7 and Annex V.

40. Are there shellfish production areas in Norway? Have these been identified or are intended to be identified as protected areas under WFD and subject to additional objectives?

ACTION 21: NO to consider including shellfish areas as protected areas to protect them under the WFD Framework.

Designation of Heavily Modified Water Bodies and HMWBs and GEP

41. Please provide the overall number of HMWB designated in each RBD and the percentage due to each use (e.g. hydropower, flood protection, impoundment for water supply, etc.).

42. Please explain how the 'changes to hydromorphological characteristics', the 'significant adverse effects on the water use' and 'better environmental options' have been assessed (article 4(3) of WFD) in the HMWB designation process. Are criteria being developed for the 2015 RBMP?

ACTION 22: to establish (in the HMWB guideline) clear and transparent criteria for the assessment required by Article 4(3), including all steps in the designation described in the CIS guidance document such as the identification of significant changes in character, significant adverse effect on the water use and better environmental options. Dry sections of rivers cannot per se be regarded as HMWBs.

ACTION 23: NO will provide the methodology and the results for hydropower screening that serve for defining significant adverse effects in the water use.

ACTION 24: NO will provide the new criteria for HMWB designation.

43. Please explain the improvements on designation expected for the - first full cycle RBMPs. Are there changes expected in the overall number of HMWBs?

44. Has GEP been defined for all HMWB and how? Is there a national approach covering all types of HMWB? Is GEP being expressed on the basis of biology? Are mitigation measures identified at Water Body level? Please provide reference to existing Guidance Documents and a summary of the approach.

ACTION 25: Identify transparently and report at water body level the biological conditions and mitigation measures consistent with GEP.

ACTION 26: incorporate the information on HMWB designation and GEP setting in water body fiches accessible through the National water information system.

45. Has ecological potential been assessed for all HMWB? Please provide a table with the result of this assessment.

Objectives and Exemptions

46. Were the specific water requirements for areas designated for the protection of habitats and species assessed? Are these expected to be included in the RBMP as additional objectives for the relevant Water Bodies?

ACTION 27: NO to consider the inclusion of water related objectives of nature protected areas in the RBMP and under the WFD Framework. These specific objectives need to come from assessing the needs of habitats and species in relation to water (quantity and quality)

47. Did the setting of objectives for drinking water take into account the level of water purification and the aim of article 7(3) WFD?

ACTION 28: NO to assess whether additional objectives need to be set in DW PAs for the next cycle in order to reduce water treatment needs and to include them where necessary.

48. Is the status of all protected areas known? Please provide a summary. Were any exemptions set for the additional objectives of Protected Areas?

49. What are the current achievements in developing the methodology for applying exemptions under articles 4(4), 4(5), 4(6), 4(7)?

ACTION 29: the prioritisation process needs to consider and be justified according to the conditions in article 4(4).

ACTION 30: ensure that the application of derogations for new modifications is in line with article 4(7). This exemption can only be applied for new projects which involve a physical modification of water bodies or changes in the groundwater level. Deterioration by new pollution sources are not allowed, except when they entail a change from high to good status due to new sustainable human development activities (second indent of first paragraph in article 4(7)).

50. Concerning Article 4(7), are permitting authorities under an obligation to ensure that the conditions under that Article are fully respected before deciding to grant a permit? Which authorities are involved in the process?
51. Is there a strategic assessment for the development of new hydropower in Norway (i.e. selection of best sites for the development of new hydropower taking into account environmental considerations)? Please provide the reference document.
52. Please explain how WFD article 4(7) is applied: which authority makes the assessment, in which administrative context, relationship with the EIA, etc.

ACTION 31: ensure that the scope of application of derogations for new modifications is in line with article 4(7). This exemption can only be applied for new projects which involve a physical modification of water bodies or changes in the groundwater level. Deterioration by new pollution sources are not allowed, except when they entail a change from high to good status due to new sustainable human development activities (second indent of first paragraph in article 4(7)).

ACTION 32: ensure that article 4(7) is correctly applied. The conditions need to be verified and its justification transparently reported in the RBMPs. Verification needs to be done for each project, assessing the impacts on each quality element that forms the basis of WFD ecological status as regards potential deterioration and/or prevention of achievement of good status.

ACTION 33: develop a national guidance on the application of article 4(7).

53. Please provide a list of new hydropower plants that have been authorised since 2007 in Norway including basic characteristics (MW, dam size, storage capacity, etc) and whether they have been subject to an assessment under WFD article 4(7).

Action 34: See actions under Q52.

Programmes of Measures (general)

54. What is the legal status of PoM in NO? Will the PoM be legally binding for authorities? Is it planned to review and change the legal status of PoM in NO?

ACTION 35: Ensure that PoM is effective, that competent authorities are committed to implement them, not necessarily providing all details but ensuring implementation.

55. How will funding be ensured? From which resources/funds will it be considered?

ACTION 36: Ensure funding for the implementation of PoM.

56. How will the next round of RBMPs ensure better information on the scale of pressures impacting on status?
57. How will NO design RBMPS to ensure a better link between pressures and measures and greater clarity on the scope, timing and the funding of measures?

58. How will local and regional authorities be involved in the development of more detailed sub-basin plans for the RBMPs? How will this be coordinated with the flood risk management plans?
59. What is being done to realise the potential of natural water retention measures in delivering multiple benefits in Norway's 1st full RBMP cycle?

Programmes of measures (agriculture and aquaculture)

60. Have you determined what load reduction of nutrients is needed from agriculture and aquaculture to allow for nutrient conditions consistent with good status (if so, at what scale has this been done)?

ACTION 37: Conduct a gap analysis in nutrient pollution in all areas where diffuse pollution from agriculture is relevant. Ensure measures are put in place to allow reduction in sector's pollution (agriculture, aquaculture) and to allow good status objectives to be met. Any development that increases pollution has to be sustainable in the long term and consider the capacity of the ecosystem compatible with good status.

61. How has article 11.4 been translated into controls on farming and aquaculture production - especially controls on phosphate/organic pollution?

COM: there was a mistake in the question – it should refer to basic measures **art 11.3**. COM wants to understand what mandatory/control measures have been introduced.

ACTION 38: Additional new questions to be replied to in writing.

- a) Please detail how article 11.3.h requirements which require controls on diffuse sources of pollution (phosphate, organic pollution etc) have been transposed into NO law and implemented on the ground for both the agriculture and aquaculture sector.
- b) Please explain to what effect these measures/controls are sufficient to address diffuse sources of pollution and any changes that will be implemented for the first full cycle plans ?
- c) What additional measures (eg agri-environment type measures for farmers) are necessary and will be implemented in the first full cycle RBMP?

62. Is there any national plan or strategy to further develop the aquaculture sector? And if so, have the WFD objectives been taken into account?

63. The legislation (Royal Decree) does not consider the biological impacts from aquaculture farms (infections, escaped fish, invasive species) as a potential pressure for coastal waters. Nevertheless, are there measures taken to reduce these impacts? How are they monitored? Please describe.

64. Are agricultural subsidies being "greened" in NO to encourage the uptake of measures necessary to allow WFD good status to be met?

ACTION 39: NO to send additional replies in writing:

How will agri environment actions (eg through REP scheme) necessary to secure improvements to reach good status be secured?

Will this be done either through targeting or mandatory requirements in certain areas to improve uptake of necessary measures?

What level of funding is needed to secure good status (in addition to basic measures) and will this be provided in the POM?

Programmes of measures (chemical pollution)

65. (a) What progress has been made on compiling the inventories required by Article 5 of the Environmental Quality Standards Directive? (b) Will full inventories be included in the future RBMPs, and will they cover both point and diffuse sources of chemical pollutants? (c) Which years will the inventories relate to?

ACTION 40: NO to cover diffuse pollution in the inventories.

66. What substance-specific measures have been identified?

ACTION 41: the failures of chemical standards need to be followed by measures.

Programmes of measures (Groundwater)

67. What kind of measures were undertaken and what is the plan for the future?

ACTION 42: establish specific measures targeted to pressures and risks and incorporate measures into the RBMPs.

68. How the measures applied are targeted to the identified risks and pressures?

Programmes of measures (hydromorphology)

69. What the percentage of the hydropower plants (small and large scale hpp) having proper mitigation measures in place compatible with the achievement of the WFD objectives (e.g. fishpasses, ecological flow, etc.)?
70. Is Norway systematically reviewing existing hydropower permits to bring them in line with WFD objectives (eg ecological flows and river continuity)?
71. Are there any existing guidelines/regulations within NO on the definition of an ecologically based flow regime? Is this based on WFD environmental objectives?

ACTION 43: ecological flow (e-flow) means a flow compatible with good ecological status both in quantity and regime. E-flows should be reported transparently at water body level. Fish may not be the only biological quality element to consider. Any significant deviation from the e-flow to achieve GES needs to be justified on the basis of fulfilment of the conditions for exemptions.

ACTION 44: the on-going prioritisation needs to be included in the Programme of Measures to trigger the review of the permits in the first full cycle, to align them to the WFD environmental objectives.

72. What percentage of improvement in river connectivity will be ensured in upcoming years? Is there an action plan/strategy?
73. Have any hydromorphological measures been implemented in the pilot round for HMWB? Please provide a succinct overview.

Programmes of measures (protected areas)

74. Could you provide details about the measures taken to protect drinking water protected areas (e.g. establishment of safeguard zones and implications of these)? How many surface and Groundwater Bodies are affected by these?

ACTION 45: NO to integrate safeguard zones set around abstraction points in the RBMP. in the next cycle. The measures in the safeguard zones should be included in the Program of Measures.

75. Are there any measures included in the RBMP for achieving additional objectives habitats and species protected areas?

ACTION 46: The additional measures related to the specific objectives of PA need to be included in the PoM in first full cycle RBMP.

Economic analysis (Article 9, water services, contribution from sectors)

76. Describe the progress NO has done in economic analysis preparation. Has NO already developed national guidance and tools for economic analysis development?

ACTION 47: COM encourages NO to use guidance documents, which have been produced within CIS and follow expertise of other MS.

77. Please provide detailed information on how NO will conduct economic analysis in the 1st full cycle, especially in the context of:

- a. inclusion of broad range of water services including: water supply and sanitation by public/private providers, self-abstraction in different sectors, impoundments for hydropower, cooling, flood protection, navigation;
- b. environmental and resource costs calculation,
- c. assessment of recovery of costs of water services
- d. implementation of polluter pays principle, including diffuse pollution
- e. implementation of incentive water pricing policy for efficient water use

ACTION 48: In the first full cycle RBMPs NO should follow the approach presented in observations to the ANNEX "Country-specific assessment NO". Broad range of water services should be considered within the economic analysis for the purpose of cost recovery and incentive pricing policy.

78. Please explain current situation in water pricing, in particular:

- a. is individual metering compulsory for domestic, industrial and agriculture use?
- b. Are there taxes/fees/charges to recover environmental costs of:
 - impoundments for hydropower, navigation,
 - cooling for energy production
 - point source pollution by industry, domestic sector, agriculture,
- c. is the agriculture sector contributing to recovery of costs of diffuse pollution?

ACTION 49: NO to consider the implementation of economic incentives related to reduction of pollution load (point and diffuse sources).
