PIANC WATER FRAMEWORK DIRECTIVE (WFD) SEMINAR BRUSSELS 31 JANUARY 2007

INTRODUCTION

1. On 31 January 2007, in Brussels, PIANC together with its partners in the 'Navigation Task Group (NTG) on the Water Framework Directive (WFD)' hosted a conference on the EU Water Framework Directive and the issues it raises for ports, navigation and dredging. RYA has been represented on the NTG through its membership of the European Boating Association (EBA) and Stuart Carruthers and Neal Hill attended on its behalf.

BACKGROUND

2. The European Water Framework Directive (WFD) was adopted on 22 December 2000. This is a major legislative initiative, intended to resolve the piecemeal approach to European water law which has developed since 1975. The WFD stipulates that surface water bodies such as lakes should achieve good ecological and chemical status (pollutant levels) by 2015. Standing water designated as Heavily Modified Water Bodies (HMWBs) or Artificial Water Bodies are required to attain Good Ecological Potential by 2015.

3. Implementation of the EU Water Framework Directive (WFD) is now well-advanced and the NTG understand much better the implications for the navigation sector (ports, commercial and leisure navigation and dredging). For example, it is already clear that hydromorphology, including not only navigation but also flood defence, will be a key WFD issue in all Member States.

4. From 2007 the WFD implementation process will focus less on the production of guidance at EU level and more on action at river basin level - notably the preparation of river basin management plans and agreement on the programmes of measures required to meet 'good status'. 2007 may also bring some clarification with respect to the 'Priority Substances' Daughter Directive, and possibly the links between the WFD and the Marine Strategy Directive. But PIANC also has many concerns, for example how will sediments be dealt with and what will be the implications of the WFD for dredging and new development proposals?

RIVER BASIN MANAGEMENT PLANNING

5. Article 13 of the Water Framework Directive places a duty on member states to ensure that a comprehensive river basin management plan is produced, and updated every six years, for each river basin district. The first set of plans must be published by December 2009, having consulted on a draft plan at least one year beforehand. In essence the WFD will be implemented through these plans.

6. The plan for a river basin is a detailed account of how the objectives set for the river basin (ecological status, quantitative status, chemical status and protected area objectives) are to be reached within the timescale required. The plan includes all results of the analysis of objectives: the river basin's characteristics, a review of the

impact of human activity on the status of waters in the basin, estimation of the effect of existing legislation and the remaining "gap" to meeting these objectives; and a set of measures designed to fill the gap. One additional component is that an economic analysis of water use within the river basin must be carried out. This is to enable there to be a rational discussion on the cost-effectiveness of the various possible measures. It is essential that all interested parties are fully involved in this discussion, and indeed in the preparation of the river basin management plan as a whole.

CONFERENCE OBJECTIVES

7. The WFD and River Basin Management Planning has been the subject of some concern to RYA staff and we are particularly concerned that our interests as stakeholders might not always have been taken into account. The conference was relevant in that it brought together the navigation community and water managers at all levels; the regulators and the regulated; together with advisors, academics and NGOs. Its purpose was not only to provide an update on progress with implementation of an ambitious Directive, but also to offer an opportunity to ask questions, exchange experiences and express views.

8. An important part of the conference was a series of workshops that dealt specifically with the three most important WFD issues facing the navigation sector:

- The relationship between the WFD and EU Maritime Strategy.
- The role of sediment management in river basin management planning.
- The need for practical solutions to hydromorphological issues.

Each workshop comprised a mixture of presentations by experts, stakeholder statements and open discussion. The full proceedings will be published on CD ROM by end of Feb 07.

9. In recognition of the importance of the WFD and its interrelationship with navigation interests, the Director of the Water, Chemicals and Cohesion Directorate of DG Environment (Peter Gammeltoft) of the European Commission and the Head of Unit of Motorways of the Sea and Inter-modality (Jean Trestour) of DG Transport and Energy (DG Tren) presented keynote addresses to the conference. The German Water Director from the Federal Ministry of the Environment (Fritz Holzworth) presented the concluding remarks. (Germany currently has presidency of the EU.

PROBLEMS AND CHALLENGES ARISING FROM THE CONFERENCE

10. The major problems identified on the day which will pose important challenges for implementation were:

- It should be noted that the Common Implementation Strategy (CIS) is not a guarantee that removes the potential for legal dispute and will not prevent NGOs from mounting a legal challenge to a perfectly proper public consultation where all the criteria for a new development have been proven. Thus, the WFD has the potential to prevent dredging and therefore precipitate the closure of some ports. It was interesting to note that some 20 out of 25

member states identified navigation as a significant pressure that River Basin Management plans must address.

- The sea/land interface between the Marine Thematic Strategy and WFD is not properly understood nor are the boundaries which are not clearly defined. The Commission itself is at variance on whether the Marine Strategy extends seaward of the 'Baseline' (in UNCLOS terms) or covers all tidal waters. This is compounded because the WFD jurisdiction extends for 1nm seaward for 'good ecological status' and 12nm seaward in the case of prescribed substances under the Daughter Directive on Priority Substances. This means that the coast and beaches could well come under the river basin planning process and in some areas the environmental pillar of the Maritime Policy will be the WFD, not the Marine Strategy.

- The economic benefits of short sea shipping and inland waterways transport are not properly recognised as being significantly important in their own right as way of reducing the pollution from road transport. This point needs to be driven home and understood as a sound environmental proposition.

- There is still much legal uncertainty rooted at the EU level and interpretation of phraseology that has been copied across from the Birds and Habitat directive with all its faults and problems. This has lead to the delay and/or cancellation of projects, economic loss and friction in the navigation and ports sector. A common implementation strategy has not been a guarantee against legal disputes.

- The dredging community were concerned that there were too many loose definitions and vague wording and that many of the analyses relating to ports and navigation were superficial. In terms of the daughter directive, there is great concern with the need to ensure water quality standards in relation to the 33 prescribed priority substances where these occur naturally. In addition, a recent UK RIA estimated that dealing with TBT would cost €1.5billion per annum alone!

- Several times, both DG Environment and DG Tren stated that the Commission had 'Learnt lessons from the implementation of the Birds and Habitats Directives' As a result they were quite clear that public participation must take place and the views and needs of stakeholders need to be addressed. The message is 'Get involved'.

ACTION FOR RYA

11. The following actions are recommended:

- RYA should remain engaged with the PIANC NTG through its EBA membership; we are recognised as a member. PIANC is a powerful organisation that is best placed to influence the commission.

- RYA should continue to press for full representation on ALL River Basin Management groups or seek assurance that recreational boating interests are fully represented. The commission expects this.