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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

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Subject: Evaluation of water legislation
- Exchange of views

1. On 10 December 2019, the Commission forwarded to the Council its report on a Fitness check of EU water legislation ¹. This report was prepared in accordance with Article 19(2) of the Water Framework Directive, which tasks the Commission with reviewing the Directive at the latest 19 years after the date of its entry into force (22 December 2000) and proposing any necessary amendments to it.
2. This fitness check is a comprehensive policy evaluation of four Directives on integrated water management: The Water Framework Directive (WFD); the Environmental Quality Standards Directive (EQSD); the Groundwater Directive (GWD) and the Floods Directive (FD). It assesses whether the Directives are fit for purpose by examining their performance against the five criteria set out in the Commission's Better Regulation agenda: relevance, effectiveness, efficiency, coherence and EU added value. The fitness check is also closely linked to the evaluation of the Urban Waste Water Treatment Directive (UWWTD) ².

¹ 15101/19 + ADD 1.

² 15135/19 + ADD 1 + ADD 2.

3. The Commission presented its report at the Environment Council meeting on 19 December 2019. The Working Party on the Environment discussed it at its meeting on 13 January 2020.
 4. To support the exchange of views between Ministers on the evaluation of water legislation at the meeting of the Council (Environment) on 5 March 2020, the Presidency prepared a background paper with three questions to help structure the discussion that can be found in the Annex to this Note.
 5. The Permanent Representatives Committee is invited to take note of the Presidency background note and to forward it to the Council for the exchange of views.
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Evaluation of Water Legislation

- Exchange of views -

Presidency background paper with questions for Ministers

The **Fitness check**, a comprehensive policy evaluation, **of the Water Framework Directive (WFD)**, including its **associated Directives** (the Groundwater Directive (GWD) and the Environmental Quality Standards Directive (EQSD)) and the **Floods Directive (FD)**, concluded that these legislative instruments are largely fit for purpose, with some room for improvement. The Directives have led to a higher level of protection for water bodies and flood risk management than could have been expected without them.

The Water Framework Directive has been successful in setting up a governance framework for integrated water management for the more than 110 000 water bodies in the EU, slowing down the deterioration of the water status and reducing chemical pollution. Nevertheless, the Directive's implementation has been significantly delayed due to insufficient funding, slow implementation and insufficient **integration of environmental objectives in sectoral policies**, and not due to any deficiency in the legislation. As a result, less than half of the EU's water bodies are in good status, even though the deadline for achieving this was 2015, with the possibility of exemptions until 2027. The next river basin management plans, which are programmes for measures and cooperation between the European Commission and the Member States, will play a key role in ensuring the necessary progress towards achieving the environmental objectives.

The evaluation of the **Urban Waste Water Treatment Directive (UWWTD)** found that the Directive has proved to be very effective overall when fully implemented. The UWWTD is known to be the most financially demanding directive, notwithstanding the fact that the benefits of implementing it largely outweigh its costs. However, despite significant progress and overall high levels of compliance at the time of the evaluation, implementation was significantly delayed in some Member States. The Directive has been successful in reducing targeted pollutants from point sources (domestic/urban waste water and similar industrial pollution).

In this context, it is noted that implementing the Directive remains crucial for meeting the objectives of other EU legislation, including the Bathing Water Directive and the Water Framework Directive. The UWWTD is the main tool for ensuring that the EU's **bathing water** sites are safe. Moreover, through the treatment set out in the Directive, it reduces a number of non-targeted chemicals. Furthermore, the reduction of organic matter and other pollution in treated wastewater has clearly improved the quality of EU **water bodies**. There is wide recognition among stakeholders that the Directive is still needed, though it might be revised.

All Directives were assessed with regard to their potential to address new societal challenges such as climate change and contaminants of emerging concern. The fitness check found that the Water Framework Directive is sufficiently prescriptive with regard to the pressures to be addressed, and also flexible enough to reinforce its implementation as necessary in view of emerging challenges. Nevertheless, **there is room for improvement and achieving better results in the area of chemicals**, in particular for the EQSD and the updating of relevant substances. Furthermore, the evaluation of the UWWTD found that contaminants of emerging concern such as pharmaceuticals and microplastics discharged through waste water systems are not well addressed by the Directive. Therefore, **there is a need to address these challenges** (for example, with new and additional techniques for treatment).

The Directives do not explicitly require Member States to include **climate change** in the River Basin Management Plans and Flood Risk Management Plans, but the WFD does refer to the need to identify all 'significant pressures' affecting water bodies. Storm water overflows and urban run-off, which are already a pressure on surface water bodies, are not well addressed by the UWWTD. With more heavy rainfall events expected in the future, they might be an increasingly significant source of pollution.

The fitness check on the Water Framework Directive found that for this instrument and the related Directives there is still room to increase **synergies and integration with sectoral policy areas** such as agriculture (strong pressures from nitrates and pesticides and from water abstraction), energy (generation of hydropower and production of biomass for energy) and transport (inland navigation). Similarly, the evaluation of the UWWTD found that there may be scope for improving the coherence of the UWWTD and climate and energy policies.

An important issue for all Directives is funding. EU funding combined with national budgets and, to some degree, water pricing have supported the implementation of all Directives; nevertheless, there is a need to step up efforts at national level. In view of the need to maintain and reinvest in existing infrastructures and to tackle the issue of contaminants of emerging concern and other societal challenges, adequate measures must be taken at EU and national levels and sufficient financing sources must be identified to implement those measures.

Suggested Questions for the exchange of views at the Environment Council on 5 March 2020:

1. *As the evaluation of the water legislation concluded that the Directives are largely fit for purpose, what is the most appropriate follow-up to address new societal challenges such as climate change and contaminants of emerging concern (e.g. pharmaceuticals, microplastics)?*
2. *How can enhanced integration of EU water legislation objectives in other EU policy areas (notably agriculture, energy, transport, industrial production) be achieved in a mutually supportive way?*
3. *How can implementation of EU water legislation be improved, taking into account key related challenges, such as availability of funding?*