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**OVERVIEW OF EXISTING REPORTING REQUIREMENTS
OF RELEVANCE FOR THE UNECE WATER CONVENTION -
CHALLENGES AND ADVANTAGES RELATED TO THE INTRODUCTION
OF REPORTING UNDER THE CONVENTION**

Submitted by the Secretariat

I. Introduction

1. The fifth session of the Meeting of the Parties (MOP) to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Geneva, 10-12 November 2009) agreed on the need for a specific mechanism under the Convention through which problems related to implementation and possible differences on the Convention's interpretation could be addressed. The Meeting entrusted the Legal Board to prepare a proposal on the objectives, structure, tasks, functions, measures and procedures of an institutional and procedural mechanism to facilitate and support implementation and compliance, for possible adoption at the sixth session of the MOP in 2012.¹

2. The Legal Board at its seventh meeting (Geneva, 15-16 April 2010) started to explore possible options for such mechanism. Since many existing implementation and compliance review mechanisms under different multilateral environmental agreements (MEAs) have a general monitoring function, often linked to consideration of periodic reports by bodies in charge of such mechanisms, the Legal Board addressed the possibilities for the introduction of reporting under the Convention. The discussion focused on the advantages of a possible reporting mechanism and on the potential burden that such a mechanism could impose on Parties and the Secretariat.²

3. In order to facilitate the development of options for a possible future facilitative implementation mechanism, the Legal Board established an open-ended drafting group and entrusted it with preparing a working document to reflect the options. The drafting group met in Geneva on 4-5 October 2010 and discussed, inter alia, the issue of reporting. The drafting group asked the Secretariat to prepare an overview of existing reporting requirements of relevance for the Convention, by the eighth meeting of the Legal Board, in order to enable the Legal Board to

¹ Report of the Meeting of the Parties on its Fifth Session (ECE/MP.WAT/29, available at http://www.unece.org/env/documents/2009/Wat/mp_wat/ece_mp_wat_29_%20reportMOP5.pdf)

² Report of the Legal Board on its seventh meeting (ECE/MP.WAT/AC.4/2010/2, available at http://www.unece.org/env/documents/2010/wat/Legal%20Board/ECE_MP_WAT_AC_4_2010_2_report.pdf)

have a substantive discussion on this issue. The drafting group recommended addressing in this document the reporting under other UNECE MEAs, in order to be able to explore possible approaches to reporting.

4. This document therefore aims to facilitate the Legal Board discussion this issue, by:
 - (i) Providing an overview of existing reporting requirements of relevance to the Convention;
 - (ii) Illustrating approaches to reporting under other UNECE MEAs and instruments;
 - (iii) Discussing potential advantages, challenges and burdens of introducing reporting requirements under the Convention.

II. Existing reporting requirements of relevance to the Water Convention

5. National implementation reports for several multilateral environmental agreements (MEAs) of global and regional level often include information that can be a valuable source for assessing implementation of some obligations under the UNECE Water Convention. In the context of global MEAs, the most relevant information could be found in:

- (a) National reports submitted every three years under the 1971 Convention on Wetlands of International Importance especially as Waterfowl Habitat (e.g. information in section 2 “General information of national implementation progress and challenges”; information under Goal 2 “Wetlands of international importance”; information under Goal 3 “International Cooperation”)³;
- (b) National reports submitted under the 1994 United Nations Convention to Combat Desertification (e.g. information on legal and institutional measures)⁴;
- (c) National communications under the 1992 United Nations Framework Convention on Climate Change (e.g. information in sections “Policies and measures” and “Vulnerability assessment, climate change influence, and adaptation measures” of fourth national communications)⁵.

6. National implementation reports under some other global agreements (e.g. 2001 Convention on Persistent Organic Pollutants) may contain water pollution data but usually are much less relevant to assess implementation of obligations under the Water Convention. In addition, national reports on the achievement of the Millennium Development Goals (MDGs), in sections on water-related MDGs, may contain information relevant to implementation of obligations under the UNECE Water Convention.

7. As for the regional MEAs, most relevant information on implementation of some obligations under the Water Convention could be traced in questionnaires/reports submitted under the following MEAs:

- (a) Questionnaires completed once per inter-sessional period (3-4 years) in the framework of review of implementation under the 1991 Convention on Environmental Impact Assessment in a Transboundary Context (e.g. information on the domestic environmental

³ See national reports under Ramsar Convention at http://www.ramsar.org/cda/en/ramsar-documents-national-reports/main/ramsar/1-31-121_4000_0__

⁴ See national reports under UNCCD at <http://www.unccd.int/cop/reports/menu.php>

⁵ See national reports under UNFCCC at http://unfccc.int/national_reports/items/1408.php

- impact assessment system and information on the application of environmental impact assessment to transboundary water projects, if any)⁶;
- (b) National reports submitted every three years under the 1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (e.g. information on public participation in international forums when access to information on transboundary water cooperation and public participation in joint bodies are addressed)⁷;
 - (c) National reports to be submitted every three years under the 1999 Protocol on Water and Health to the Water Convention (e.g. information on water quality parameters and criteria, measures to improve water quality, pollution sources).⁸

8. At subregional level, the most relevant information on implementation of obligations under the Water Convention could be found in the information and data reported under the European Union water legislation, in particular the EU Water Framework Directive (WFD) as described below. The reporting regimes which exist for the Urban Waste Water Treatment Directive, Nitrates Directive, Bathing Water Directive, and Drinking Water Directive also include data and information relevant for implementation of the Water Convention. In the rest of the UNECE region, there are no reporting systems on water of similar level of substance and detail.

9. The reporting requirements of the WFD are specified in Articles 3 and Article 15 of the Directive. Article 3 requires EU Member States to provide information to the European Commission on the identification of river basin districts and competent authorities. Article 15 requires information to be provided to the Commission on: (a) the analysis carried out according to Article 5; (b) monitoring programmes; (c) river basin management plans and d) an interim report on the implementation of the programmes of measures. Article 18 of the Directive requires the Commission to publish reports on the implementation of the Directive and to submit them to the European Parliament and to the Council.

10. The reporting with regard to the WFD is twofold. The EU Member States report the documents produced according to the provisions of the Directive as explained in paragraph 9. Additionally and without a legal obligation, the Member States report via reporting sheets for each WFD implementation step, as established in the Common Implementation Strategy process. In the framework of the Common Implementation Strategy for EU WFD, the reporting requirements under the WFD are formulated in the Guidance Document No 21: Guidance for reporting under the Water Framework Directive.⁹ EU Member States provide data to the Water Information System for Europe – WISE, developed by the European Commission (DG Environment, Joint Research Center and Eurostat), and the European Environment Agency (EEA). Moreover, a number of non-EU countries (Iceland, Liechtenstein, Norway, Switzerland and Turkey) and cooperating countries of the EEA also provide data to the European Environment Information and Observation Network. On the basis of the information provided,

⁶ See completed questionnaires during the second and third review cycles under the Espoo Convention at http://www.unece.org/env/eia/implementation/review_implementation.htm

⁷ See national implementation reports under Aarhus Convention at <http://www.unece.org/env/pp/Reports.htm>

⁸ See summary reports submitted in the first reporting cycle under the Protocol at http://www.unece.org/env/water/Protocol_implementation_reports.html

⁹ Guidance Document 21, available at http://circa.europa.eu/Public/irc/env/wfd/library?l=/framework_directive/guidance_documents/guidance_guidance_report/_EN_1.0_&a=d

EEA regularly prepares State of the Environment Reports covering among others also water issues, both quality and quantity related.

11. The first reports by EU Member States were made in 2004 (for Article 3) and 2005 (for Article 5). The Commission has used the information provided to make the first report on implementation in 2007. Reports on monitoring programmes were made by the EU Member States in 2007, and the Commission published the second implementation report, on the establishment of monitoring programmes for surface waters and groundwater (Article 8 and Annex V), in 2009.¹⁰ The first reports by EU Member States on the river basin management plans were due in March 2010.

12. Information reported under the WFD includes, *inter alia*, information on river basin management planning (see Annex VII WFD); geographically referenced information (maps, including those reflecting pollution loads and status of water bodies); status of surface water and groundwater bodies and information on surveillance and operational monitoring programmes, management objectives; pressures, impacts and summarized programmes of measures; economic data, including economic analysis of water use and recovery of the costs of water services.

13. At the river basin level, information and data relevant for assessing the implementation of the Water Convention is often provided by countries to their joint bodies for transboundary water cooperation, when such bodies exist. At the same time, countries mostly report to joint bodies about implementation of the decisions of these joint bodies,¹¹ rather than providing comprehensive standardized periodic reports. With regard to providing information and data to joint bodies which are the coordination platforms for the purposes of the EU WFD and, therefore, lead the preparation of respective river basin management plans or at least the international parts of such plans, the requirements on the provision of information and data by riparian countries are often more intense.

14. Parties to the Water Convention have prepared the First Assessment of Transboundary Rivers, Lakes and Groundwaters (2007) and are currently working on the Second Assessment, to be presented to the Seventh Ministerial Conference “Environment for Europe” (Astana, 21-23 September 2011). Although the “Assessments” provide a comprehensive picture of the state of transboundary waters and, in this way, of the implementation of the Convention, they have not been initiated with the aim to raise issues of implementation and compliance, and have never been considered as reports on implementation of the Convention. It is why the process has been able to actively involve also non-Parties, which is one of its important strength.

¹⁰ WFD Implementation reports, available at http://ec.europa.eu/environment/water/water-framework/implrep2007/index_en.htm

¹¹ According to Article 9 of the 1999 Convention on the Protection of the Rhine, the Contracting Parties shall report regularly to the International Commission for the Protection of the Rhine on:

(a) the legislative, regulatory and other measures they have taken with a view to implementing the provisions of this Convention and on the basis of the Commission’s decisions;

(b) the results of the measures implemented in accordance with subparagraph (a);

(c) problems arising in the implementation of the measures referred to in subparagraph (a).

III. Approaches to reporting under other UNECE MEAs and instruments¹²

15. With exception of UNECE Water Convention, all other UNECE MEAs, including the Protocol on Water and Health, have reporting mechanisms. Moreover, there is also a reporting mechanism under the UNECE Strategy for Education for Sustainable Development. This section shortly describes the main features of such mechanisms and how they have evolved in time.

Protocol on Water and Health to the Water Convention

16. According to article 6 of the Protocol on Water and Health, within two years of becoming a Party, each Party shall establish and publish national and/or local targets and target dates in different areas in order to achieve or maintain a high level of protection of human health and well-being and for the sustainable management of water resources. Furthermore, article 7 of the Protocol requires Parties to collect and evaluate data on their progress towards the achievement of the targets set and how this has contributed towards preventing, controlling or reducing water-related disease. Every three years, Parties shall review the progress made in achieving the targets set, and publish an assessment of that progress. Parties shall also provide to the joint secretariat, a summary report of the data collected and evaluated and the assessment of the progress achieved. Such national summary reports shall be in accordance with guidelines established by the Meeting of the Parties.

17. The Meeting of the Parties at its first session entrusted the Task Force on Indicators and Reporting with the preparation of the guidelines for the summary reports for adoption at its second session. The Working Group on Water and Health at its second meeting decided on the organization of the first pilot reporting exercise based on the draft guidelines and template for summary reports.

18. The pilot reporting exercise took place in 2009-2010. National summary reports have been submitted in one of the official languages of the Protocol, and have been made available on the Protocol's website. Based on the national summary reports, a regional implementation report has been prepared by the joint secretariat. The second Meeting of the Parties (2010) reviewed the results of the first reporting exercise and adopted the Guidelines on the setting of targets, evaluation of progress and reporting.

Convention on Long-range Transboundary Air Pollution (LRTAP)

19. Under the LRTAP Convention, Parties have an obligation to report annually on their emissions of polluting substances under the European Monitoring and Evaluation Programme (EMEP) established under the Convention. The data on emissions reported by the Parties is collected and made publicly available through an online database, the EMEP Centre on Emission Inventories and Projections (CEIP), hosted by the Austrian Environment Agency. The CEIP database is in English only.

¹² This chapter is partially based on the document ECE/MP.PP/WG.1/2010/8, Issues concerning the editing and translation of national implementation reports, http://www.unece.org/env/documents/2010/pp/ece_mp_pp_wg_1_2010_8_e.pdf prepared by the Aarhus Convention Secretariat.

20. Parties to the LRTAP Convention are also obliged to report to the Convention's Implementation Committee on their implementation of the protocols to the Air Convention. On the basis of a questionnaire, Parties send information to the secretariat, which summarizes the information and periodically reports on it to the Implementation Committee. The Implementation Committee meets twice a year and reports annually to the Executive Body of the Convention, which makes decisions upon recommendations by the Committee. The Committee consists of nine Parties to the Convention, each elected for a term of two years. The Committee's reports are made available to the public in the three official languages, whereas the information provided by the Parties on their national implementation is not made public directly. However, once every four years the secretariat publishes a compilation of the information submitted by the Parties (the 'Review of Strategies and Policies for Air Pollution Abatement').

Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention)

21. Through decision II/10, the second Meeting of the Parties established a task force to undertake a first comprehensive review of the Convention based on experience gained in its implementation. On the basis of Parties' responses to a questionnaire, which were not made directly available to the public, the secretariat drafted a review of implementation, a Summary of which was adopted by the Meeting of the Parties in 2004.

22. At their third Meeting (2004)¹³, the Parties decided to again complete a questionnaire on the implementation of the Convention and the secretariat was mandated to prepare a second review of implementation, using the responses to the questionnaire as a basis. The review was adopted by the Meeting of Parties at its fourth meeting in 2008. The Parties' responses during this second review were made available to the public through the Espoo Convention website.

23. At the fourth session of the Meeting of the Parties, it was decided that the Parties would again complete a questionnaire to report on their implementation of the Convention, and that a third review of implementation based on the reports by Parties would be presented at the fifth session of the Meeting of the Parties in 2011. Completed questionnaires are currently available at the website.

24. The electronic questionnaire includes two parts: part 1 - Current legal and administrative framework for implementation of the Convention (questions are designed article-by-article) and part 2 - Practical application in the reported period. The questionnaire allows providing information requested or revising information submitted in the previous report.

Convention on the Transboundary Effects of Industrial Accidents

25. The Convention stipulates in article 18, paragraph 2 (a), that the Conference of the Parties shall review the Convention's implementation, and requires Parties to periodically report on implementation (article 23). The Conference of the Parties established a Working Group on Implementation to lead this process. By now, five reporting cycles took place. On the basis of individual country reports submitted to the secretariat, the Working Group compiled five reports on the implementation of the Convention, all of which were endorsed by the Conference of the Parties at the respective sessions.

¹³ At this meeting, Parties also amended the Convention as described in para. 44 of this document.

26. Individual national implementation reports submitted within all five reporting rounds were not made available to the public. Through a password-protected website, the reports were only made available to the competent authorities designated by individual Parties, in accordance with a decision of the Conference of the Parties. The reports were submitted in one of the three official UNECE languages and were added to the website in their original form. For the purpose of preparing the report of the Working Group on Implementation, informal translations into English were prepared of those reports that were submitted in Russian or French.

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)

27. Article 10, paragraph 2, of the Aarhus Convention requires the Parties to keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties. Through decision I/8, the Meeting of the Parties established a reporting mechanism whereby each Party is requested to submit a report to each meeting of the Parties on the legislative, regulatory and other measures taken to implement the Convention, and their practical implementation, according to a reporting format annexed to the decision. In 2007, the Aarhus Convention Compliance Committee developed additional guidance on reporting requirements, which sets out a methodology for the preparation and submission of the national implementation reports.

28. An important feature of the Aarhus Convention reporting mechanism is that reports submitted by Parties, Signatories and other States should be prepared through a transparent and consultative process involving the public. Also, international, regional and non-governmental organizations engaged in programmes or activities providing support to Parties and/or other States in the implementation of the Aarhus Convention may provide the secretariat with reports on their programmes or activities and lessons learned.

29. National implementation reports are submitted to the secretariat electronically and on paper in one of the official languages of the Convention, as well as in the language(s) of the Party. The secretariat prepares a synthesis report for each meeting of the Parties, summarizing the progress made and identifying significant trends, challenges and solutions. The secretariat arranges for translation of the reports submitted by Parties into the official UNECE languages.¹⁴ Implementation reports may be prepared and submitted online through the database for national reports in the Aarhus Clearinghouse.

30. In the current reporting cycle (2010-2011) Parties use a consolidated reporting format, incorporating recent additions to the reporting format annexed to decision I/8. These additions include reporting on implementation of the amendment to the Convention, i.e. article 6bis on genetically modified organisms, and reporting on implementation of article 3, paragraph 7 concerning public participation in international forums.¹⁵

¹⁴ The Aarhus Convention Bureau at its 26th meeting (Geneva, 9 November 2010) agreed to discontinue the practice of translating all national implementation reports for the current intersessional period. Parties are encouraged to submit their reports in the three official languages. For the purpose of the preparation of the synthesis report, informal translations into English are arranged by the secretariat of those national implementation reports submitted in Russian or French.

¹⁵ It is possible that the format of the national implementation reports will be further amended, so that in the future Parties would be requested to include information about the follow-up on specific cases of non-compliance, when

Protocol on Pollutant Release and Transfer Registers to the Aarhus Convention

31. According to article 17, paragraph 2, of the Protocol, the Meeting of the Parties to the Protocol shall keep under continuous review the implementation and development of the Protocol on the basis of regular reporting by the Parties. At its first session (2010), the Meeting of the Parties through decision I/5 adopted the format for reporting and requested each Party to submit to the secretariat in advance of the second ordinary session of the Meeting of the Parties, a report on the legislative, regulatory or other measures taken to implement the provisions of the Protocol, and on the practical implementation of these measures at the national level. In advance of each subsequent ordinary session of the Meeting of the Parties, Parties shall review their reports and prepare and submit to the secretariat new information and, where available, a consolidated national implementation report. National implementation reports are to be submitted to the secretariat in one of the official languages of the Protocol, as well as in the language(s) of the Party. The secretariat will prepare a synthesis report for each ordinary session of the Meeting of the Parties, summarizing the national implementation reports and identifying significant trends, challenges and solutions.

UNECE Strategy for Education for Sustainable Development

32. The UNECE Strategy for Education for Sustainable Development (ESD) was adopted in 2005 by the environment and education ministers of UNECE member States. Work under the Strategy constitutes an important contribution of the UNECE region to the United Nations Decade on ESD (2005-2014).

33. To carry out a comprehensive review of the Strategy's implementation, the UNECE Steering Committee on ESD – the body mandated to decide on the Strategy's implementation and review its progress – decided to organize a region-wide reporting mechanism, based on a unified reporting format and a set of indicators.¹⁶ Progress in implementing ESD is to be assessed by comparing the progress achieved in the three implementation phases of the Strategy (2005-2007, 2008-2010 and 2011-2015).

34. Based on the pilot reporting exercise in 2007, a revised reporting format was endorsed by the Steering Committee in 2009. The revised reporting format is accompanied by the 2009 Guidance for reporting.

35. UNECE member States should prepare reports through a multi-stakeholder consultative process. Reports should be submitted to UNECE secretariat in English. Member States are also encouraged to provide the text in the two other official languages of the UNECE. Reports are made available on the website in the languages in which they are received; no editing is provided. UNECE Secretariat prepares a synthesis report.

36. Currently, member States participate in the first formal reporting for the second phase of implementation (2008 – 2010). The synthesis report will be presented to the sixth meeting of the Steering Committee in April 2011.

relevant. This proposal was put forward by the Aarhus Convention Compliance Committee and will be discussed by the Working Group of the Parties in February 2011.

¹⁶ See Implementation of the Strategy <http://www.unece.org/env/esd/Implementation.htm>

37. An important feature of this reporting mechanism is that the reporting requirements were streamlined by UNECE and UNESCO – the lead global agency for the United Nations Decade on ESD. Also, following the decision by the Joint session on ESD at the Sixth Ministerial Conference “Environment for Europe” (Belgrade, 2007), the UNECE member States are to submit a single report on the implementation of the UNECE Strategy that can also serve as a report on the implementation of the Decade. Active cooperation with UNESCO is important to ensure that reporting under the Strategy and reporting in the framework of the Decade does not impose undue burden on UNECE member States.

IV. Potential implications of introducing reporting requirements

38. In general, reporting contributes to the effective functioning of an MEA, by providing: (i) a basis for evaluating the effectiveness of an MEA; (ii) a means for sharing information amongst Parties; (iii) a basis for reviewing Parties’ implementation of and compliance with their obligations under the MEA.¹⁷

39. Reporting also helps promote implementation by increasing public awareness, by identifying gaps in implementation and compliance and therefore stimulating specific measures directed at improving implementation. Such specific measures, taken as a follow-up of the reporting exercise, could be both domestic (e.g. adoption or revision of legislation, strengthening inter-agency coordination, etc.) and international (e.g. international assistance, exchange of experience, transfer of technology and know-how in order to enable and facilitate implementation).

40. However, it shall not be ignored that reporting is often connected with burdens, in particular, with regard to time and resources of the governmental officials in charge of compiling the reports, as well as costs associated with collecting and processing data and information. As emphasized in the UNEP Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements, special care should be taken to ensure that data collection and reporting requirements are not too onerous and are coordinated with those of other MEAs.¹⁸ With regard to parallel reporting requirements it is necessary to avoid duplication of work and find synergies. This is an important aspect to be considered with regard to reporting under the EU legislation and a possible reporting under the Water Convention.

41. Apart from putting certain burden on the governments, reporting also means additional tasks for the Secretariat servicing an MEA. While the degree of such pressure depends on the design of the reporting system, relevant issues include (a) availability of human resources at the Secretariat, (b) needs for translation and editing of the reports, (c) various models for the production of compilation/synthesis/summary reports, (d) related opportunities to outsource certain work (translation, production of summary report, etc.), (e) public accessibility of reports.

42. A carefully designed reporting system under an MEA can reduce some burdens mentioned above. The common ways to ease the burdens connected with reporting include: (a)

¹⁷ Guidelines for Strengthening Compliance with and Implementation of Multilateral Environmental Agreements in the ECE region, ECE/CEP/107, available at <http://www.unece.org/env/documents/2003/ece/cep/ece.cep.107.e.pdf>

¹⁸ UNEP Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements, UNEP(DEPI)/MEAs/WG.1/3, annex II, available at <http://www.unep.org/DEC/docs/UNEP.Guidelines.on.Compliance.MEA.pdf>

formulating optimal and realistic reporting cycles; (b) setting deadlines that would take into account both the frequency at which data becomes available at the national level and the timing of international meetings scheduled to discuss such data; (c) harmonizing different reporting systems, linked to definitions, methodologies and data collection, to enable countries to use similar underlying sets of data where appropriate; (d) coordinating deadlines for reporting under relevant MEAs; (e) using electronic questionnaires to facilitate reporting; (f) designing a model for reporting which would rely, to the extent possible, on available data; (g) engaging various stakeholders, both governmental and non-governmental, in the reporting exercise, in order to minimize the burden on the responsible governmental agency; and (h) periodic review of the reporting system in order to be able to make necessary adjustments based on lessons learned.

V. Possible issues for discussion at the Legal Board

43. Even if the Water Convention requires the Meeting of the Parties to keep under continuous review implementation (article 17), it does not provide for reporting requirements. An introduction of reporting under the Convention would most probably require a decision of the Meeting of the Parties in accordance with Article 17(2) of the Convention.

44. In this regard, one may recall the example of the UNECE Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention). Initially, the Espoo Convention included no reporting requirements. At their second meeting (2001), Parties initiated the first review of implementation of the Convention. At their third meeting (2004), Parties adopted the Summary of Review of Implementation. They have also amended the Convention by adding, *inter alia*, article 14bis “Review of compliance”, which introduced regular reporting and the compliance procedure. The amendment has not yet come into force. In the meantime, Parties to the Espoo Convention continued periodic reviews of implementation based on respective decisions taken by the Meeting of the Parties. The second review of implementation has taken place in 2003-2005, and the third one is ongoing.

45. During the discussion, the Legal Board may wish to address:

- (a) Added value and potential burdens of introducing reporting requirements under the Water Convention;
- (b) Possible formal procedure through which reporting requirements could be introduced, if so decided;
- (c) Possible correlation with the work under the EU WFD.
