

Workshop agenda: The implementation of the Polluter Pays Principle

29 - 30 March 2022

The agenda is designed to facilitate knowledge sharing and capacity building across Member States. It builds on the background note on the same topic. The workshop is part of a series of four thematic workshops aimed to facilitate the implementation of the economics of the Water Framework Directive in European Member States. The workshop series is co-convened by the OECD and the European Commission's Directorate-General for Environment.

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The implementation of the Polluter Pays Principle Workshop agenda 29 –30 March 2022

This thematic workshop is part of a series aimed to facilitate the implementation of the economics of the Water Framework Directive in European Member States. It is co-convened by the European Commission and the OECD and focusses on topics that can support decisions about the Polluter Pays Principle implementation.

In four distinct sessions, it will discuss the following topics:

- Practical obstacles to implement the Polluter Pays Principle for water resources management in your country.
- Fairness and the implementation of the Polluter Pays Principle for water resources management.
- The Polluter Pays Principle in relation to disproportionate costs.
- The potential role of the Polluter Pays Principle in the new Zero Pollution ambition, the case of water.

It will address challenges faced by Member States and support discussions and sharing of best practices among Member States.

A background note provides additional information for each topic and serves as basis for the discussion.

Expected outputs from the workshop

- Increased attention to approaches targeting polluters outside the water and sanitation sectors.
- Raised awareness of water charges inequality across sectors and users.
- Identification and dissemination of good practices and emerging approaches related to assessing disproportionate costs.
- Exchange of experience and knowledge to promote more sustainable, effective and efficient application of the Polluter Pays Principle based on cost recovery assessment.
- Reflection on current instruments in place in Member States in relation to the new level of ambition of the European Green Deal.

Tentative workshop structure

	Day 1 (29 March) 10:00-12:15 <i>Session 1</i>	Day 1 (29 March) 13:15-14:45 <i>Session 2</i>	Day 2 (30 March) 10:00-12:15 <i>Session 3</i>	Day 2 (30 March) 13:15-14:15 <i>Session 4</i>
Theme	How the Polluter Pays principle applies for diffuse pollution. Equity issues and options to address them	How the Polluter Pays principle applies for diffuse pollution. Equity issues and options to address them	The Polluter Pays principle in relation to disproportionate costs	The Polluter Pays principle and the new Zero Pollution ambition
Topics	<p>The case of agriculture</p> <p>Main items:</p> <ul style="list-style-type: none"> - Acteon, Measures to address diffuse pollution from agriculture in Member State, the state of play. - Scotland, Scottish Environment Scotland's approach to rural diffuse pollution. - Thematic discussion - Next steps 	<p>Extended producer's responsibility. The case of contaminants of emerging concern</p> <p>Main items:</p> <ul style="list-style-type: none"> - Germany, German Association of Energy and Water Industries, Extended producer responsibility, water fund. - French water industry: discussion between the water and the industry sector. - Thematic discussion - Next steps 	<p>Strengths and limitations of economic analyses and policy responses (CBAs, extended producer's responsibility...)</p> <p>Main items:</p> <ul style="list-style-type: none"> - France, Ministry of Ecological Transition. - Netherlands, Ministry of Infrastructure and Water management. - Thematic discussion - Next steps 	<p>Does the Polluter Pays Principle fit the new level of ambition? Challenges and opportunities</p> <p>Main items:</p> <ul style="list-style-type: none"> - European Commission, Presentation on the Zero Pollution action plan - Thematic discussion - Next steps

Session 1. How to apply the Polluter Pays principle in the case of diffuse pollution. Equity issues and options to address them in the agriculture sector.

Diffuse sources of pollution remain one of the greatest obstacles to achieving “good” status in EU waters. Agriculture remains the predominant source of reactive nitrogen discharged via run-offs into the environment and a significant source of phosphorus. Surface runoff not connected to treatment systems, atmospheric deposition and rural dwellings are important sources. Other significant sources are wastewater discharges that are not connected to a sewerage treatment system, contaminated soils or abandoned industrial sites (there are also contributions from energy and transport).

Monitoring and regulating diffuse pollution from agriculture is complex because of:

- Difficulty measuring the discharge of various pollutants at the level of individual polluters. For effective regulation, measurements should factor in the characteristics of the polluter, effluents, soil characteristics and the recipient water body; case law from ECJ says that PPP should reflect the relative contribution of individual polluter
- High variability, both spatially and temporally, making the attribution of pollution sources even more complex. Changes in the natural geomorphology and flow of water bodies can also have some effects on water quality and the ability of ecosystems to process and retain pollutants.
- High transaction costs resulting from large numbers of heterogeneous polluters (e.g. farmers, homeowners): monitoring costs, administrative costs of implementing a charge.
- Required co-operation and agreement within and between catchments, and across sub-national jurisdictions and countries.

This has implications for the type of measures, in particular economic instruments, that decision-makers can put in place to address diffuse pollution of water resources. For diffuse pollution abatement and prevention, economic instruments appear a prime candidate under the WFD to cover costs while applying the Polluter Pays Principle, but the diffuse pollution’s specific features pose distinctive challenges. On the one hand, water pollution charges are difficult to design and implement due to the challenges to monitor pollution contributions from individual polluters; on the other hand, other economic policy instruments (such as charges on polluting inputs) fail to deliver expected results.

This session discusses measures that can be put in place to tackle diffuse pollution, which can serve as a source of inspiration and basis for discussion on the implementation of strategic planning approaches in European Member States.

Agenda: 29 March, 10:00h – 12:15h**Moderator:** Paul Arnoldus, *DG Environment, European Commission*

Time	Agenda item
10:00 – 10:15	Opening of the session <ul style="list-style-type: none"> Bettina Doeser, <i>DG Environment, European Commission</i>
10:15 – 10:25	State of play of diffuse pollution Keynote presentation: Measures to address diffuse pollution from agriculture in Member State, the state of play. <ul style="list-style-type: none"> Pierre Strosser, Acteon
10:25 – 10:45	Country examples: Scotland's approach to rural diffuse pollution. <ul style="list-style-type: none"> Darrell Crothers, Scottish Environment Protection Agency, Scotland
10:45 – 11:45	Thematic discussion <ul style="list-style-type: none"> Does your country have economic instrument in place to reduce diffuse water pollution? How is the individual responsibility (pollution contribution) of (individual) operators/farmers assessed? Which tools and methods are used? Which role(s) for farmers/operators in the application of these tools/methods and/or use of their results? Are you addressing diffuse pollution collectively at other scales? E.g. within the scope of food territorial plans, product value chain agreement, labels, circular economy initiatives, etc.
11:45 – 12:10	Next steps <ul style="list-style-type: none"> What could be key topics and issues that need further attention to support the application of successful solutions? How these could be addressed and by whom? In particular: <ol style="list-style-type: none"> Which role would you be ready to play? Which role of the CIS process (e.g. including a new topic on the agenda of a WG, organise workshops, share good practice among MS, etc.)
12:10 - 12:15	Conclusion and Wrap up (Moderator)

Session 2. How the Polluter Pays principle applies for diffuse pollution. Equity issues and options to address them at collective scale.

This session discusses measures that can be put in place to tackle diffuse pollution by extending the Producer's Responsibility. Two country examples will be shared, in the context of the control of emerging pollutants.

Agenda: 29 March, 13:15h – 14:45h

Moderator: Paul Arnoldus, *DG Environment, European Commission*

Time	Agenda Item
13:15 – 13:20	Opening remarks <ul style="list-style-type: none"> Bettina Doeser, <i>DG Environment, European Commission</i>
13:20 – 13:30	Country examples: Funds to tackle diffuse pollution at catchment level <ul style="list-style-type: none"> Sandra Struve, Manager EU Water Policy, EU Digital Policy, Broadband and Critical Infrastructure Protection, Representation to the EU. German Association of Energy and Water Industries, Germany A fund based solution for trace element reduction - Extended producer responsibility
13:30 – 13:40	Country example: French water industry: discussion between the water and the industry sector <ul style="list-style-type: none"> Ismahane Remonnay, Risk & Global Regulatory Affairs Director, Veolia, France On-going discussions between the water and the chemical industries.
13:40– 14:20	Thematic discussion <ul style="list-style-type: none"> At what conditions is Extended Producer Responsibility an appropriate tool to support implementation of the Polluter Pays Principle for water pollution? Relevance for other domains. Practical limitations. Potential impacts on innovation
14:20 –14:35	Next steps <ul style="list-style-type: none"> What could be key topics and issues that need further attention to support the application of successful solutions? How these could be addressed and by whom? In particular: <ol style="list-style-type: none"> Which role would you be ready to play? Which role of the CIS process (e.g. including a new topic on the agenda of a WG, organise workshops, share good practice among MS, etc.)
14:35– 14:45	Conclusion and Wrap up (Moderator)

Session 3. The Polluter Pays principle in relation to disproportionate costs

The good status for all European waters objective pursued by the WFD can be adjusted to “less stringent environmental objectives”, when the water body is affected by natural conditions or human activities that the achievement of “good status” would be infeasible or disproportionately expensive. Implicitly, when defining disproportionate high costs, there is a comparison to a benchmark cost in relation to too low net benefits, and/or too high cost burden (affordability).

Somewhat surprisingly, “disproportionate costs” as argument for a permanent lower ambition level (WFD art 4(5)) appears so far hardly invoked, with the notable exception of chemical status for surface waters (namely almost 20% of the total). This contrasts with the higher frequencies with which this argument has been invoked to justify a time extension to achieve good status (WFD art 4(4)), in particular for achieving the ecological status for surface waters (and to a much lesser extent for the other status dimensions). About one third of surface water bodies is claiming a postponement due to technical infeasibility; about one sixth due to disproportionate costs proper and about one ninth due to natural conditions. Notably, for groundwater bodies, these exemptions have played a less important role.

However, the relative importance of time extensions (WFD art 4(4) route) vis-à-vis a reduction of environmental objectives due “disproportionate costs” (WFD art 4(5) route) is likely to be reversed. This is because in almost all cases, the WFD has set as the ultimate deadline to achieve good status the year 2027, thus the end of the programming period of the 3rd River Basin Management Plans (RBMPs),

According to the Commission’s assessment of the set of second RBMPs, the justifications for exemptions have remained generic, despite the progress has been made since the first set of River Basin Management Plans. In particular, the corroboration of “technical infeasibility” claims needs to be better articulated, and “disproportionate costs” arguments underpinning less stringent objectives should be better distinguished from those underlying a delay in reaching good status. The lack of a well-established methodology for determining when costs are disproportionate seems one of the main barriers to produce a solid justification for exemptions.

This session discusses disproportionate costs assessment in the context of the cost recovery efforts / potential as present among Member States in the context of the 3rd RBMPs definition, in particular as regards the efforts to reach good status or set properly justified lower objectives.

Agenda: 30 March, 10:00h – 12:15h

Moderator: Pierre Strosser, *Acteon*

Time	Agenda Item
10:00 – 10:20	Opening remarks (Moderator)
10:20 – 10:30	<p>Country examples: Strengths and limitations of economic analyses and policy responses in France</p> <ul style="list-style-type: none"> • Marine Favre, Water economist, Ministry of Ecological Transition, France
10:30 – 10:50	<p>Country examples Strengths and limitations of economic analyses and policy responses in the Netherlands</p> <ul style="list-style-type: none"> • Rob van der Veeren, Senior economic policy advisor, Ministry of Infrastructure and Water management, the Netherlands

10:50 – 11:45	<p>Thematic discussion</p> <ul style="list-style-type: none"> • What analytical tools are in place to support discussions about exemptions on the basis of disproportionate costs? At which scale (from the individual operator to an industry or country)? Strengths and limitations of available tools. • Have efforts been made to put in place (any financial) mechanism to attract additional sources of funding to cover disproportionate costs and / or to spread costs over a larger group of contributors? Could you please indicate the mechanisms, the sector(s) and at which scale(s) in particular? What has been the impact of these mechanisms on the number of exceptions reported?
11:45 – 12:10	<p>Next steps</p> <ul style="list-style-type: none"> • What could be key topics and issues that need further attention to support the application of successful solutions? • How these could be addressed and by whom? In particular: <ul style="list-style-type: none"> (i) Which role would you be ready to play? (ii) Which role of the CIS process (e.g. including a new topic on the agenda of a WG, organise workshops, share good practice among MS, etc.)
12:10 - 12:15	<p>Conclusion and Wrap up</p> <ul style="list-style-type: none"> • Delia Sanchez Trancon, <i>Policy Analyst, OECD</i>

Session 4. The potential role of the Polluter Pays Principle in the new Zero Pollution ambitions, the case of water

Going beyond the current water acquis' implementation, it may make sense to explore whether the Polluter Pays Principle is fit for the new level of ambition set by the European Commission and the EU Member States. In particular, the European Green Deal's "Zero Pollution Action Plan" aiming to reduce air, water and soil pollution to levels no longer considered harmful to health and natural ecosystems (the zero pollution vision for 2050).

The main objective of the action plan is to provide a compass for including pollution prevention in all relevant EU policies. This is translated into key 2030 targets for water such as improving water quality by reducing waste, plastic litter at sea (by 50%) and microplastics released into the environment (by 30%) and improving soil quality by reducing nutrient losses and chemical pesticides' use (by 50%). In addition, the action plan highlights the need for assigning a right price to pollution and creating incentives for alternatives, as required by the Polluter Pays principle, which constitute key drivers to stimulate cleaner production and consumption.

The prevailing context is also characterised by Contaminants of Emerging Concern (chemicals, microplastics, pharmaceuticals, etc.). Emerging concerns can relate to fully new issues, or issues where knowledge and awareness have increases as a result of better monitoring and reporting, or issues related to better understood effects of "existing pollution(s)," such as increased toxicity from the mixture substances, (e.g. endocrine disruption or anti-microbial resistance). Following the logic of the Zero Pollution, the most sustainable solution remains to prevent contaminants of emerging concern from entering the water cycle.

This session discusses the challenges and opportunities of the instruments and approaches currently used by Member States, and their fit for purpose under the next level of ambition under the European Green Deal.

Agenda: 30 March, 13:15h – 14:15h

Moderator: Delia Sanchez Trancon, *OECD*

Time	Agenda item
13:15 – 13:20	Opening of the session (Moderator)
13:20 – 13:30	Zero Pollution ambition and the Polluter Pays Principle Keynote presentation: Zero Pollution ambition within the WFD and the Polluter Pays Principle <ul style="list-style-type: none">Hans Stielstra, European Commission
13:30– 14:50	Thematic discussion <ul style="list-style-type: none">What instruments have your country put in place to reinforce pollution avoidance / prevention as over abatement and cleaning up?What roles does circular economy initiatives have in delivering financially viable solutions to address pollution? Could you please indicate the pollution type and the circular economy initiatives? What are their implications for the application of the Polluter Pays Principle and cost-recovery Principle?

13:50 – 14:10	Next steps <ul style="list-style-type: none">• What could be key topics and issues that need further attention (to support the application of successful solutions)?• How these could be addressed and by whom? In particular:<ul style="list-style-type: none">(i) Which role would you be ready to play?(ii) Which role of the CIS process (e.g. including a new topic on the agenda of a WG, organise workshops, share good practice among MS, etc.)
14:10 – 14:15	Conclusion and Wrap up <ul style="list-style-type: none">• Xavier Leflaive, <i>Head of Resilience, Adaptation and Water, OECD</i>