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## **WORKING PAPER**

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### **Contrasting stories on overcoming governance challenges: The implementation of the EU Water Framework Directive in the Netherlands**

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#### **Abstract**

*The European Water Framework Directive (WFD) has provided the European Member States with a range of interacting governance challenges. This article studies three of these (the need for new administrative arrangements, public participation, and the enforced strict time frame). It questions how these interacting governance challenges were addressed in implementing the WFD in the Netherlands – a particularly interesting country since the European Commission assesses its implementation process in relatively positive terms, whilst*

*an in-depth study reported on in this article tells a contrasting story. Based on this study, the article concludes that especially the interaction effects between the governance challenges may help us to better understand the outcome of the WFD implementation process, and to provide more suitable advice as to how to improve the implementation process in future rounds.*

**Keywords:** water policy, policy implementation, EU Water Framework Directive, public participation

## **1. Introduction**

Roughly three years after the majority of European Member States finalized the first phase of the implementation of the EU Water Framework Directive (WFD) (EC, 2000), the European Commission (EC) released an evaluation of their efforts (EC, 2012b). This EC evaluation is somewhat negative: it is not to be expected that the WFD goals will be reached in the short term; the WFD has not replaced Member States' water management as was intended but is generally added to it as an extra layer; and many Member States make extensive use of exemption criteria allowed by the WFD. Scholars studying the WFD implementation will hardly be surprised by this outcome. For years they have analysed the difficulty for Member States of meeting particular WFD requirements, for instance public participation (Carter & Howe, 2006), the highly technical and performance-based requirements (Kaika & Page, 2003), or the need to change existing administrative structures to meet the requirement of river basin based water management (Hagberg, 2010). Also, it is unlikely that the EC's findings will raise the eyebrows of scholars interested in the implementation of EU directives more generally: this is not to say that Member States show active non-compliance with the WFD, but there are clearly implementation failures that these scholars have also identified

with other directives (e.g., Falkner, Hartlapp, Leiber, & Treib, 2004; Lampinen & Uusikylä, 1998; Versluis, 2004).

We, on the contrary, *are* surprised by the EC's evaluation. Not so much by this general evaluation, but by the specific country evaluation of the Netherlands (EC, 2012a).<sup>1</sup> In 2010, directly after the finalization of the first implementation phase, we carried out an extensive evaluation of the WFD implementation in the Netherlands (Anonymous, 2010). This research was driven by three obvious, but relevant questions: (1) What is the range and content of the governance challenges Member States faced when implementing the WFD? (2) How have these governance challenges been addressed in the Dutch case? And, (3) How successful has the Netherlands been in addressing these governance challenges and their interaction? Our participants in a series of interviews and a survey questionnaire (total n=391) were highly critical about the WFD implementation process in the Netherlands. Contrary to our expectations, however, the EC's country evaluation of the WFD implementation in the Netherlands presents a story of (relative) success (EC, 2012a). We therefore now ask: (4) What causes the differences between these two stories? We consider this question of relevance since the EC provides considerable advice to Member States on how to improve the WFD implementation process for future phases based on their assessments.

This article aims to address this specific issue by providing a detailed and in-depth case study of the WFD implementation in the Netherlands. Besides the contrasting stories of success, the Netherlands is a particularly interesting case to study. It has been among the leading countries in getting the WFD on the (international) political agenda; it invested much time and effort to meet WFD requirements between 2000 and 2009; and it was the first country to actually adopt river basin management plans in November 2009 (cf. EC, 2012b).

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<sup>1</sup>For an overview of all EC evaluations, see: [http://ec.europa.eu/environment/water/participation/map\\_mc/map.htm](http://ec.europa.eu/environment/water/participation/map_mc/map.htm) (last accessed in December 2012).

As such, it provides us with a ‘telling’ case from which valuable insights and lessons may be drawn (McKeown, 2004). Understanding the limitations of presenting a single country case study, however, we do not claim empirical generalizability. Our aim is to provide bounded insights into ‘basic patterns, or tendencies’ understanding that other studies ‘may find something similar but not identical’ (Payne & Williams, 2005: 297, 306).

In section 2, this research first canvasses the context and content of the WFD. It does so to introduce the reader to a number of the governance challenges Member States faced in implementing it. Section 3 addresses the research approach, data collection techniques and methodology used. In section 4 we examine how the various challenges have been addressed in the Netherlands. Section 5 assesses the Dutch implementation based on EC reports and our respondent data. In section 6 we aim to understand the differences between these evaluations by delving deeper into the case and looking behind the scenes of the stories presented in section 5. Finally, section 7 concludes with the main lessons learned.

## **2. The Water Framework Directive: governance challenges**

The background, history and content of the WFD have been discussed at great length in this journal (Bratt, 2004; Carter & Howe, 2006; Lundqvist, 2004) and elsewhere (Kaika & Page, 2003; Kallis & Butler, 2001; Page & Kaika, 2003).<sup>2</sup> In studying these works it becomes clear that the WFD has posed the Member States a range of significant governance challenges. Three stand out, to which we add a related challenge.

### *2.1 Administrative arrangements*

The WFD requires the organization of water management around river basins instead of around existing political or administrative boundaries, as was the practice prior to the WFD.

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<sup>2</sup> See also the EU website on the WFD: [http://ec.europa.eu/environment/water/water-framework/index\\_en.html](http://ec.europa.eu/environment/water/water-framework/index_en.html) (last checked: 17/03/11).

A river basin is a natural geographical and hydrological unit that defines a river and the waters and land watering into it – a unit that may (and often does) cross national borders. As such, river basins require coordination and cooperation between existing administrative units within and between Member States. The WFD requires Member States to draw up river basin management plans for each river basin within national boundaries. This plan is a detailed account of how the goals of the WFD are to be reached by the deadline within a Member State.

## *2.2. Public participation*

The WFD is the first piece of EC legislation that forces the Member States to ensure public participation in policymaking. The WFD provides a clear rationale for public participation: ‘The success of [the WFD] relies on close cooperation and coherent action at Community, Member State and local level as well as on information, consultation and involvement of the public, including users’ (EC, 2000: 16). The actual requirement for Member States to ensure public participation is documented in WFD Article 14: *Public Information and Consultation*, which mentions three forms of public participation: information supply and consultation, both of which are to be ensured by the Member states, and active involvement, the encouragement of which is mandatory.

## *2.3 A strict and coerced time frame*

Having entered into force on 22 December 2000 the WFD has provided a strict time frame to which the Member States are to adhere (Art. 25 WFD). Member States were required to transpose the WFD into national legislation by 22 December 2003 (Art. 23 WFD), and to identify river basin districts and related competent authorities for the application of WFD rules by the same date (Art. 3 WFD). By 22 December 2004, Member States were to have

provided a report on the characterization of the river basins (Art. 5 WFD). By 22 December 2006, Member States were required to have established a network for monitoring water status (Art. 8 WFD) and to have started public consultation. Finally, a draft river basin management plan had to be provided by 22 December 2008 (Art. 13 WFD), and a final plan by 22 December 2009 (Art. 11 and 13 WFD). In the interval, the plan was to be open for public consultation for a period of six months.

#### *2.4 Terminology and measures*

In addition, the often highly technical and sometimes open and ambiguous terminology used for stating goals and measuring goal achievement may strengthen these governance challenges (cf. Kaika & Page, 2003). The WFD aims at a ‘good’ ecological and chemical quality status for surface waters, and at a ‘good’ status of groundwater in terms of chemical and quantitative properties. It contains numerous highly technical annexes defining and proposing a large set of indicators to guide the Member States in establishing the ecological quality of water bodies (current, or reference quality) and to measure goal achievement (future quality). In addition, reference is made to existing EU legislation as to the concentration of particular chemicals in waters. Member States were left with the task to further outline definitions for aspects not yet covered in EU legislation. Finally, in implementing the WFD, Member States are required to evaluate the costs of the measures taken. This adds an extra challenge as measures taken may be part of larger non-WFD policies (i.e. the mutual improvement of a bridge and its direct surroundings; the combining of regular river shore maintenance with specific WFD interventions), and the costs of such measures are often borne by various actors. This makes it very difficult to gain insight into the exact costs of (individual) WFD measures.

## *2.5 Interaction effects*

In summary, the WFD provided the Member States with a range of challenges that had to be met under a strict *and* coerced time frame. Even more, the many challenges seem to interact with and reinforce each other – a problem well known to scholars of policy implementation (cf. Holzinger & Knill, 2004), but sparsely addressed in earlier studies on the WFD. For instance, the interpretation of requirements and reaching consensus about goals depend on a sound institutional setting. That is, consensus is more likely to be achieved if the various parties know and trust each other than when they are more alien to each other (cf. Noveck, 2011). Yet, the new institutional settings, suiting the river basin structure, were likely to take considerable time to crystallize. Also, for public participation to be effective it first needs to be clear what exactly the topic of the participation process is; that is, an interpretation of goals and requirements (cf. Dietz & Stern, 2008). But again, it was likely that reaching such consensus on the exact meaning of the highly ambiguous article 14 would take considerable time (cf. EU Working Group on Public Participation, 2002). This presented Member States with a tough dilemma: meeting all the EC requirements, but taking the risk of running out of time and facing a penalty for a late submission of river basin management plans, or, taking less time for meeting all the EC requirements, but then running the risk of handing in river basin management plans that would not meet EC expectations and facing a penalty for this.

## **3. Research approach and methodology**

The research presented here is part of an evaluation commissioned by the Dutch Ministry of Infrastructure and the Environment<sup>3</sup> (henceforward referred to as ‘the Ministry’) of the WFD implementation in the Netherlands (Anonymous, 2010). The aim of this research was to understand how the Netherlands has dealt with the above-mentioned governance challenges,

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<sup>3</sup>Formerly the Ministry of Traffic, Public Works and Water Management.



to evaluate the implementation process thus far, and to learn valuable lessons for future implementation. This study was carried out between January and July 2010, using a four-step approach for data collection, analysis and validation of findings. The first three questions introduced before were leading in this analysis.

First, to gain insight into the 10-year implementation period of the WFD, we drew up a storyline based on existing policy documents, working articles, internal memoranda, meeting minutes and other grey literature (cf. Venesson, 2008). The storyline was discussed with three major players in the implementation process.

Second, we then carried out a series of 50 elite semi-structured and open-ended interviews with key players in the implementation process (cf. Richards, 1996). Three groups were targeted, representing a wide range of stakeholders at national, regional and local levels. The interviews aimed to gain an insight into the interviewees' experiences with the WFD implementation. Interviewees were selected for their (expected) ability to provide in-depth insights into the topics of our research. A structured coding scheme, and inter-coder reliability tests, guided our analysis of the interview data (cf. Seale & Silverman, 1997).

Third, input provided by the interviews was used for an online survey questionnaire (cf. Wright, 2005). A wide range of actors involved in the implementation process was targeted, such as public officials at various levels of government, as well as private sector, NGO and interest group representatives. In total we addressed 1172 persons, of whom 298 filled out the questionnaire (response rate: 25.4%).

Finally, based on our analysis of these quantitative and qualitative data, we drew up an interim research report. Findings from this report were presented and discussed in three expert meetings. Altogether, 40 key actors from government, NGO and other stakeholder organizations and interest groups joined these meetings. During these meetings, findings were discussed and validated.

#### **4. WFD implementation in the Netherlands: addressing governance challenges**

In December 2009, a small audience gathered at the Ministry to see the responsible deputy minister hit a red button that (metaphorically) sent off the Dutch river basin management plans to the EC in Brussels. This clearly staged act is a good illustration of telling a story of success: after 10 years of hard work, the Netherlands succeeded in overcoming the governance challenges faced and delivering its river basin management plans on time. How has the Netherlands addressed the three governance challenges identified in section 2?

##### *4.1 Administrative arrangements: a new WFD implementation structure*

The Netherlands is renowned for its long history of water policy. Over centuries a complex institutional structure has developed (Havekes, Koemans, Lazaroms, Poos, & Uijterlinde, 2004; Kuks, 2002). Prior to the WFD, water policy was administered by 12 provinces, 26 water boards and about 470 municipalities. With the introduction of the WFD, this administrative structure had to be changed to four river basins: the Rhine, the Scheldt, the Meuse and the Ems-Dollard. Due to its size, covering 80% of the country, the Rhine river basin in the Netherlands is subdivided into four sub-river basins.

The introduction of river basins presented the Ministry with a complex task. It aimed to maintain the existing institutional structure of stakeholders, but had to rearrange the working relationships between these in order to provide for a setting that fitted the WFD implementation. Figure 1 represents the new organizational structure developed for the WFD implementation.

\*\*\* FIGURE 1 ABOUT HERE \*\*\*

Put simply, the WFD implementation structure in the Netherlands consists of a national column, and seven regional columns – one for each (sub-)river basin. This structure was designed and implemented by the Ministry in collaboration with the relevant stakeholders.

The national column is the arena for debates between representatives of national associations, ministerial departments and the deputy minister responsible for the WFD implementation. The top of this column is key in interest representation, as it is here that representatives of national associations have direct contact with the deputy minister. It is also here that the framework for the implementation on the (sub-)river basin level is set. All other layers of this column may be considered preparatory – i.e., the two lower layers (associations and ministries and the preparatory committee) provide input for the debates at the top of the column; the theme groups provide input to the preparatory committee; and the working group provides input to the theme groups. Interestingly, a separate arena was organized in parallel with the top of the national column. Here we find an arena in which national interest groups (i.e., industry, commerce, nature and environment, and leisure) advise the deputy minister on the WFD implementation.

The seven regional columns were the arenas for debates on the (sub-)river basin level. In this column we find a regular debate between the chairs of the columns and the deputy minister. The columns themselves are governed by administrators in the provinces and water boards who take decisions on the implementation at (sub-)river basin level. In doing so they are supported by civil servants who in consultation prepare administrative decisions. These are, in their turn, supported by product teams – comparable with the theme groups in the national column. A specific role is assigned to feedback groups – a mixture of representatives of prominent landowners (mostly nature and environmental conservancy organizations) and interest groups (i.e., industry, agriculture, commerce, leisure, environment and fishery). The

formal function of these groups is to provide input to the product teams and official preliminary consultation.

#### *4.2 Ensuring public participation: area processes and active involvement of the public*

The EC's demands for public participation – aside from resulting in the formal structure above – were met by including formal consultation in the transposition of the WFD in Dutch legislation. In addition, the water boards organized societal feedback groups to advise on their approach to the WFD, and created opportunities for NGOs to participate more or less actively in so-called 'area processes'. These processes were a short series of regular meetings at the local level. The key attendants of these meetings were policymakers and officials from provinces and municipalities. The area processes aimed at solving local bottlenecks in a cost-effective way, while meeting WFD goals (Ministry of WPW&T, 2007a).

Further, citizens faced a high level of information supply through websites, newsletters and brochures. In addition, a series of seven information meetings was organized to actively involve citizens in the implementation process.

#### *4.3 Meeting the strict time frame: the convergent planning*

In 2005, a convergent planning scheme was introduced in order to streamline the implementation process. The rationale behind this planning was to work from a wide range of possible solutions to a specific set of solutions – referred to as 'levels of ambition' – to meet WFD goals. By doing so, all parties involved had (theoretically) the opportunity to actually engage in the policymaking process by bringing in their wishes and needs. A series of discussion rounds had to result ultimately in a consensus on the final level of the ambition of plans in 2007, which could then be worked out in 2008 and 2009. Figure 2 visualizes the convergent planning.

\*\*\* FIGURE 2 ABOUT HERE \*\*\*

The planning scheme started in 2005 and worked towards the end of 2009. For 2005, 2006 and 2007, a strict cyclic time frame for policy decision-making was designed: in the first half of each year, decisions would be made on the (sub-)river basin level; in the second half of each year, decisions would be made on a national level. Each year would be finalized with a policy report stating the development of the implementation process, the decisions made and the plans for the upcoming year. The convergent planning was, therefore, designed and implemented to create a systematic approach that would involve all stakeholders, allowing them to work together towards reaching a consensus with regard to changes necessary for WFD implementation, as well as achieving relevant deadlines.

The planning resulted in a moderate level of ambition; that is, the Netherlands will take a wide range of measures to improve water quality to a moderate or good level, but does not commit to achieving the expected outcomes of these measures (EC, 2012a; LBOW, 2004).

## **5. Assessing the WFD implementation in the Netherlands: contrasting stories**

In November 2012, the EC reported on its evaluation of the various Member States' river basin management plans (EC, 2012b). Overall it may be concluded that the plans drafted by the Netherlands sufficiently meet the EC criteria addressed in this article (EC, 2012a). This suggests that the implementation structure and convergent planning did their jobs and that the public participation, as required, was sufficiently harnessed. Yet, by taking a closer look at data from our interviews (N=53) and questionnaire (N=298), a more nuanced assessment can

be provided. For each governance challenge highlighted in section 2 we here contrast the EC assessment with insights from our respondents.

### *5.1 Administrative arrangements: the new WFD implementation structure*

The EC is positive about governance and administrative arrangements: ‘Water management is clearly tackled in depth in the Netherlands’ (EC, 2012a: 3). Our respondents showed appreciation for the Dutch implementation structure, but were critical as well. Within the traditional consensus-based approach of Dutch policymaking (Woldendorp & Keman, 2007), the national and regional columns provided room for actors to become and stay involved. Public officials in particular consider this structure to have provided room for all actors to participate (75%, n=79). In contrast, local officials and those involved in the area processes consider the structure to have provided limited opportunities to do so (55%, n=53). The latter are critical of ‘the high number of meetings [they] had to visit in order to stay involved’.<sup>4</sup> Smaller interest groups in particular faced severe staffing problems. They simply could not attend all the meetings organized to voice their concerns.

Respondents representing the national associations were also highly critical of the manner in which they were represented in their communications with the Ministry – i.e., the water boards, provinces and municipalities. They shared the opinion that the particular structure provided the Ministry with the ability to shift from one set of participants to another whenever the outcomes of earlier meetings did not meet the Ministry’s objectives.

### *5.2 Public participation in practice*

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<sup>4</sup> Senior official from the Agricultural Sector Interest Group, Zwolle, 08/02/10.

Again, the EC speaks positively about public participation in the Netherlands: ‘Public participation has been carried out very extensively, and stakeholder involvement seems to be of great importance through the entire RBM development process’ (EC, 2012a: 3).

Aiming to comply with WFD article 14, two approaches were taken in the Netherlands: stakeholder participation and citizen participation. Interviewees were critical of stakeholder participation. Participants of feedback groups mentioned the ‘cosmetic’ role of their consultation. As one of our interviewees put it, ‘our comments were added *to* formal policy documents, but are not reflected *in* policy’.<sup>5</sup> Stakeholder representatives held the opinion that they were heard, but that their opinions and comments were not actually processed in the results of the policymaking process. Similar negative experiences are reported on the WFD implementation in Germany (Kastens & Newig, 2008) and the UK (Woods, 2008).

Interviewees were also critical of the 140 area processes, which allowed organized stakeholders to participate, as well as citizens to some extent. In some areas, local interest groups and an occasional citizen would sit in on the same meetings as governments; in others, separate feedback groups were installed to give societal actors the chance to give advice on issues discussed in the regular meetings. The range and depth of these processes was too varied, according to our interviewees, which resulted in a wide range of outcomes. Subsequently, severe criticism was expressed as to the wide range of actors involved in area processes. The wide range of interests represented made it difficult to actually come to an agreement on issues.

Although citizens faced a high level of information supply through websites, newsletters and brochures, *active* involvement of citizens through consultation was limited. Citizens had the opportunity to join area processes and visit the information meetings, but

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<sup>5</sup>Water Ambassador, Assen, 11/02/10.

only a few did.<sup>6</sup> Our interviewees were critical of the success of the active involvement of citizens in the WFD implementation, and at the same time wondered whether and how citizens in general *should* be involved in the WFD implementation. Town hall meetings and printed documentation seemed out of date, they concluded; and although much information was provided through websites, few to no opportunities existed for citizens to use their voice online. As Bishop and Davis (2002: 20) noted, information campaigns are ‘hardly meaningful participation, since the flow is only one way.’ Similar experiences on low citizen involvement in implementing the WFD are reported in Serbia (Trajekovic, Kolakovic, & Ignjatovic, 2005), Germany (Kampa, Kranz, & Hansen, 2003) and the Czech Republic (Slavíková & Jílková, 2011).

### *5.3 Meeting the strict time frame*

It goes without saying that the EC is positive about the timeline of implementation: the 2006, 2008 and 2009 deadlines were met, and the Netherlands was the first country to actually adopt river basin management plans (EC, 2012b).

By and large, our respondents were positive about the role of the convergent planning scheme within the implementation process (80%, n=201). They consider it to have provided a clear set of deadlines, or focal points, to work towards. Furthermore, the strict planning with yearly cycles put pressure on the policymaking process. Being subject to such pressure, various parties have ‘grown towards each other’, resulting in ‘much collaboration and cooperation between stakeholders and governments’.<sup>7</sup> This pressure was not experienced as problematic; in fact, ‘the strict deadlines may be considered *the* success factor of the process’, as one of our interviewees put it.<sup>8</sup>

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<sup>6</sup> Senior Official of the Ministry, The Hague, 10/02/10.

<sup>7</sup> Senior Water Policy Director at the Ministry, The Hague, 10/02/10.

<sup>8</sup> Senior Water Policy Advisor, Lelystad, 04/02/10.



Nevertheless, some serious criticism was expressed: the planning was considered as too static for responding to unexpected events, too static to undo earlier decisions, and too static to find alternative solutions. Finally, for many respondents the planning was implemented too late in the process: by 2005 the implementation was almost halfway and an earlier planning could have ‘saved a lot of time in the earlier phases’.<sup>9</sup>

## **6. WFD-implementation in the Netherlands revisited: a look behind the scenes**

Aiming to explain the differences between the EC story and the one presented by our respondents, we take a look behind the scenes of the WFD implementation in this final descriptive section. In contrast to sections 4 and 5, we here structure our respondents’ narrative chronologically, following three distinct time frames.

### *6.1 2001–2003: Getting used to the new-implementation structure*

Although the Netherlands had played a leading role in getting the WFD on the European policy agenda,<sup>10</sup> its actual implementation was approached with less enthusiasm. As indicated before, the Netherlands has a long history of water policy and technological solutions to deal with water-related issues. Interviewees referred to the strong beliefs of policymakers and practitioners that existing water policy would already meet WFD goals.<sup>11</sup> However, the existing Dutch water policy had a strong focus on water *quantity* (safety), and not so much on ecological water *quality*, which is exactly the aim of the WFD. As a result of these beliefs, the WFD implementation was addressed as a technical issue, and not so much as a policy issue. That is, in the first years policymakers assumed that the existing technical approach to water safety would be a suitable model for water quality too.

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<sup>9</sup> Former Chair of National Interest Groups’ Platform, The Hague, 19/02/10.

<sup>10</sup> Former International Coordinator of WFD Implementation, The Hague, 13/01/10; see also Kallis and Butler, 2001.

<sup>11</sup> Amongst others, former National Coordinator of WFD Implementation, The Hague, 21/01/10, and former International Coordinator of WFD Implementation, The Hague, 13/01/10.

Further, the development of the new WFD implementation structure took much time; and once developed, it took considerable time for individuals and organizations to get used to new administrative arrangements and develop new working relationships within the structure. However, with the first WFD deadline approaching (the transposition of the WFD in national legislation), time was becoming a critical factor, which provided a good argument for the Ministry to put pressure on getting the new WFD implementation structure accepted<sup>12</sup> – a structure that was much to the Ministry's advantage as it provided the Ministry with a leading role both in national *and* regional implementation.

In addition, in the early years of the new millennium, an increasing Euroscepticism existed in the Netherlands. The implementation of the earlier EU Air Quality Directive had provided severe planning difficulties. Policymakers and practitioners shared a feeling that the Dutch approach to this Air Quality Directive had 'locked down the country', and feared the WFD implementation would do the same.<sup>13</sup> In this climate, it was difficult to address the WFD implementation (cf. Falkner et al., 2004).

This all appears to have distracted from actually implementing the WFD. In the lee of this absence of policy attention, however, as our respondents explained, ecologists took the opportunity to address their interests. Interviewees refer to a situation under which ecologists read, interpreted and presented the WFD as a document that aims at maximizing ecological quality.<sup>14</sup> Some even noted that 'in the early years, the WFD was considered the bible of water policy',<sup>15</sup> containing 'in-depth and highly technical discussions that were incomprehensible for policymakers'.<sup>16</sup>

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<sup>12</sup> Former National Coordinator of WFD Implementation, The Hague, 21/01/10.

<sup>13</sup> Quote from Senior Official of Agricultural Sector Interest Group, Zwolle, 08/02/10; also, Senior Official of the Ministry, The Hague, 09/02/10.

<sup>14</sup> Amongst others, Director of the Association of Water Boards, The Hague, 26/02/10; and Senior Official of the Ministry, The Hague, 09/02/10.

<sup>15</sup> Former Water Policy Coordinator at the Association of Water Boards, The Hague, 11/01/10; comparable quote by Senior Official of the Ministry, Lelystad, 04/02/10.

<sup>16</sup> Former Chair of National Interest Groups' Platform, The Hague, 19/02/10; comparable quote by Senior Official at Water Board, Tiel, 10/02/10.

Everything changed, however, with the publication of a report on the expected consequences of the WFD for Dutch agriculture, nature and fisheries – the so-called Aquarein Report (van der Bolt et al., 2003). This report, commissioned by the Dutch Ministry of Agriculture, Nature and Fisheries, claimed that it would be impossible to reach the high ambitions of the WFD goals as interpreted by Dutch ecologists, even when the agricultural sector was *fully* discontinued. The report resulted in major policy turmoil, as the Dutch Parliament refused to pass or even discuss the formal decision to transpose the WFD in national legislation until the Ministry prepared a memorandum stating the Dutch ambitions (Tweede Kamer der Staten-Generaal, 2004b). The transposition of the WFD in national legislation was delayed beyond the deadline, which led to a formal notice by the EC. This in turn provided a base for additional comments and questions in the Dutch Parliament on the costs and consequences of the WFD. In retrospect, it may be concluded that the Aquarein Report and the formal notice by the EC put the implementation high on the political agenda.<sup>17</sup>

## *6.2 2004–2005: With time running out a strict planning is needed*

In 2004, the deputy minister fulfilled Parliament's request after the turmoil of the Aquarein Report and the formal notice by the EC by sending an 'ambition memorandum' proposing a so-called pragmatic WFD implementation, which a majority of Parliament supported:

The government's approach is realistic and pragmatic: WFD implementation has to result in feasible and affordable measures. The starting point is to meet the minimal requirements of the WFD and to align with existing Dutch policy as much as possible (Tweede Kamer der Staten-Generaal, 2004a:1 – our translation).

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<sup>17</sup> Amongst others, Senior Official of the Ministry of Housing, Urban Planning and the Environment, The Hague, 02/02/10; former National Coordinator of WFD Implementation, The Hague, 21/01/10; former Coordinator of Water Policy at the Association of Water Boards, The Hague, 11/01/10.

This formal choice took away much of the regional policymakers' and practitioners' scepticism towards the WFD.<sup>18</sup> For the implementation process, the choice was of major importance: it both provided a focal point and resulted in the commitment of regional policymakers.

Also, during the implementation the Ministry had changed its organizational structure. A strict distinction was made between policymaking and implementation, execution and oversight. The new agency responsible for policymaking and implementation, the Directorate-General for Water (DGW), was considered an enthusiastic organization which took the WFD implementation as its *raison d'être*.<sup>19</sup> Furthermore, in 2004, a new national coordinator for the WFD implementation was appointed. For this coordinator, meeting the time frame was of utmost importance.<sup>20</sup>

The combination of the formal government position on a pragmatic WFD implementation and the focus on steering the process in order to meet the deadlines became the starting point for the convergent planning (as discussed in Section 4.3) that was introduced in 2005. With this planning and implementation structure, the foundations were, finally, laid for the remaining four years.

However, other issues arose during this period. Within the Netherlands, a major debate was held on the enforceability of the WFD. The final text of the WFD left some ambiguity as to whether countries had to *achieve* the good status objectives, or had to *aim* to achieve the good status objectives.<sup>21</sup> This inevitably led to conflicts between those that read the WFD as a directive that enforced Member States *to ensure* a good status of waters, and those that read the WFD as enforcing Member States *to take action* – often referred to as a

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<sup>18</sup> Amongst others, former National Coordinator of WFD Implementation, The Hague, 21/01/10; former Coordinator of Water Policy at the Association of Water Boards, The Hague, 11/01/10.

<sup>19</sup> Former National Coordinator of WFD Implementation, The Hague, 21/01/10.

<sup>20</sup> Former National Coordinator of WFD Implementation, The Hague, 21/01/10.

<sup>21</sup> See also Kallis & Butler, 2001.

discussion between ‘the orthodox and the moderate’.<sup>22</sup> Regional policymakers in particular felt ‘pressure from Europe to meet set goals’,<sup>23</sup> which ‘has been a sword of Damocles over the implementation process’.<sup>24</sup> Ultimately, and again under the pressure of time, in the Netherlands it was decided that the WFD should be read as enforcing the Member States to take measures, but not *to reach* goals except in certain assigned areas (LBOW, 2004).

Another debate from this period concerned the definitions of water quality and water bodies. These definitions would have a severe impact on the measures that needed to be taken to reach the prescribed good quality status. Member States, supported by the Ministry, began collaborating to come up with determinations that would be accepted by the EC. According to interviewees, this strengthened the relationship between the Ministry and regional policymakers, as the latter felt that the former took up the cudgel for them.<sup>25</sup>

### 6.3 2006–2009: *Bringing the citizens in*

In 2007, the Ministry issued a report on the then first five years of the WFD implementation process. In this report the involvement of the public in the WFD implementation process is evaluated as negative: ‘Almost all respondents [in the Ministry’s study] indicate that during this first phase of implementing the WFD public participation has been mostly absent’ (Ministry of WPW&T, 2007, 24). It further mentions that most respondents in its study see the need for public participation, but that the active involvement of the public would not be started before 2008; that is, just before the draft river basin management plans were opened for public consultation.

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<sup>22</sup> Amongst others, Director of the Association of Water Boards, The Hague, 26/02/10; and Senior Official of the Ministry, The Hague, 09/02/10.

<sup>23</sup> Senior Official at the Ministry of Agriculture, Nature and Fisheries, The Hague, 11/02/10.

<sup>24</sup> Water Ambassador, Bergen op Zoom, 09/02/10.

<sup>25</sup> Amongst others, Senior Member of Staff at the Association of Water Boards, The Hague, 15/02/10; and Senior Official at Water Board, Lelystad, 02/02/10.

In this period much criticism was further expressed on the implementation process and the specific role of the Ministry (ECORYS, 2007; LTO, 2006; Waterdienst, 2006). Regional stakeholders expected the Ministry to provide clear definitions (whereas the Ministry expected these to result from the area processes), more information on expectations, and strict frames for the regions to work under. All in all, the various stakeholders questioned the competence of the Ministry's leadership and, based on our respondents' insights, it may be argued that a stronger leading role of the Ministry could have resulted in a more efficient WFD implementation.

#### *6.4 Explaining the differences between the stories*

In looking at the chronological and incremental development of the implementation process we uncovered some clues that may help to answer the question of why our respondents' story of the WFD implementation in the Netherlands is much more critical than the story of formal success as presented in the EC evaluation. When asked whether the current river basin management plans justify all the efforts made to implement the WFD in the Netherlands, our respondents reacted highly negatively (70% of our respondents do not consider the outcome of the implementation process to justify the effort, n=175). The EC assessment purely addressed the outcome of the implementation process, whereas our respondents *relate* the outcome to the implementation process. Further, the EC assessment addresses the individual solutions to the various governance challenges *in isolation*, whereas our respondents looked upon these *as being related*. From their experiences, the impact of interaction effects becomes clear (cf. Falkner et al., 2004).

Time and again our respondents referred to a tension between *timeliness* and *thoroughness*. Under the threat of formal EC notices for not meeting time frames *and* not meeting EC requirements, choices were made under an increasing time pressure: 'At first we

aimed for a very democratic and collaborative process. Yet, this took too many meetings. Over time the strategy was changed.’<sup>26</sup> Another interviewee said: ‘Time was leading, and this held to interest groups as well. Everyone was allowed to get on board, but not everyone could.’<sup>27</sup> The pressure of timing clearly seems to have impacted on the choices made regarding the WFD implementation structure and the convergent planning – choices that were looked back on with criticism by our respondents as we have illustrated.

Another interaction effect can be found in the tension between *interpreting* the WFD and *implementing* it. ‘After all this time we still don’t know what water *quality* is,’ one of the respondents at the Ministry sighed,<sup>28</sup> whereas a representative of another ministry clarified: ‘For a long time it felt that we administrators were ahead of the policy process. Policymakers wanted to know what the WFD exactly was about before they could make decisions.’<sup>29</sup> In the early days of implementation in particular, different groups of actors interpreted the WFD differently – e.g., farmers fearing that the WFD would bring them out of business, ecologists embracing the WFD as a tool to get Dutch waters back into pristine condition. As an interviewee highlighted, ‘For those involved it was hard to distinguish between their own interest and the larger interests the WFD aimed to meet.’<sup>30</sup> Such differences in interpretation not only took time to resolve, they resulted in considerable tensions between different groups that had to be overcome whilst developing the WFD implementation structure.

In conclusion, these tensions and interactions between the various governance challenges scarcely appear when addressing the various governance challenges in isolation, as is the case, for instance, in the EC reports, but may have had a negative overall impact on the implementation process as the Dutch case highlights.

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<sup>26</sup>Area Process Coordinator, Leeuwarden, 25/01/10.

<sup>27</sup>Interest Group Representative, Zwolle, 08/02/10.

<sup>28</sup>Senior official at the Ministry, Lelystad, 02/02/10.

<sup>29</sup>Former official at the Ministry of Housing, Urban Planning and the Environment, The Hague, 12/02/10.

<sup>30</sup>Senior official at the Ministry of Housing, Urban Planning and the Environment, The Hague, 01/02/10.

## 7. Discussion and conclusions

In this research article we aimed to understand why the WFD implementation process in the Netherlands is considered differently by the EC than by respondents. We found that not only were *individual* governance challenges posed evaluated differently, but also that the *interaction* of a range of governance challenges may have posed additional challenges that do not come out in studies such as the EC evaluation. We consider a focus on such interaction effects relevant to (i) gain a better understanding of why certain choices were made in implementing the WFD and why these caused the effects they did; and (ii) provide policymakers with more suitable advice on how to improve the WFD implementation in future rounds.

While understanding the care that needs to be taken when drawing conclusions from a single country study, we nevertheless feel that a number of lessons on such interaction effects from the Dutch case are relevant to highlight. The following lessons stand out:

- A mismatch between the ecological boundaries of river basins and the (traditional) institutional or administrative pre-WFD water management structures may result in *institutional schizophrenics*. In the Netherlands, public organizations – provinces, water boards and municipalities, and their associations – had to re-establish working relationships, whilst at the same time maintaining working relationships, as under the pre-WFD structure in other policy areas (water-related and otherwise), that posed their own governance challenges as well. A call for a less complex system and advice for ‘improved transparency and communication ... between competent authorities’ as provided by the EC (2012a: 56) therefore seems unachievable given the various interacting governance challenges faced. Besides, with a further crystallizing and normalizing of the WFD implementation structure, communication is likely to improve over time. Governments may wish, however, to make an inventory of and



focus on those areas where WFD requirements conflict with other policy areas. It is in these areas that institutional schizophrenics may pose most serious concerns (cf. Hagberg, 2010; Young, 2002).

- These institutional schizophrenics further resulted in an increase of meetings and discussion platforms, sometimes experienced as an unnecessary doubling of institutional layers by our interviewees. For stakeholder groups, and especially the smaller ones, this weakened their voice as limited resources (time, money, people) prevented them from attending the increased number of meetings, or being present in the different geographical locations. Seeking a solution to such *inflated democracy* in even more discussion platforms (EC, 2012a: 57) seems of limited practical value. Accepting the limitations of this specific form of stakeholder involvement, and aiming to involve the ‘weaker’ stakeholders through other means (e.g., representation through Internet polls, posted voting forms and telephone surveys), may be a more effective way of overcoming these limitations.
- Finally, and related, under the pressure of time the call for extensive stakeholder and citizen involvement (Article 14) may result in *technocratic public participation*. The Dutch case provides an example where the EC’s requirements are followed and met, but meeting this requirement is only *de jure*; *de facto* public participation in the Netherlands may be considered a failure as citizens were hardly involved in the process and stakeholders do not see their input reflected in the policy documents. This is a typical example where public participation has resulted in ‘empty rituals’ instead of actual ‘benefit’ (cf. Arnstein, 1969). The EC advice of ‘easy access to all relevant documents’ to ‘encourage public participation’ (EC, 2012a: 56) therefore again seems of limited value. Citizens already have access to an extensive set of WFD documents. According to our interviewees, they are, however, *not yet* interested in the WFD as it

currently does not affect them (similar concerns are expressed by Kampa et al., 2003; Slavíková & Jílková, 2011; Trajekovic et al., 2005). Governments may be better off by accepting low levels of citizen interest during the development of WFD measures and anticipating increased citizen interest (and likely, complaints) once the WFD measures are being implemented.

In conclusion, the WFD has posed Member States a considerable and interacting governance challenge. In listening closely to our respondents, we are, however, hopeful that the second phase of the WFD implementation will go more smoothly – at least in the Netherlands (74% of our respondents look positively towards this second implementation phase; n=183). Much has been learned from the first phase (EC, 2012b). One of the key lessons we aimed to flesh out in this research article is that the individual governance challenges not only interact, but strengthen each other as well. Including these interaction effects in our implementation studies will help to better understand why certain choices are made in implementing EU directives and other policy and why these cause the effects they do; and to strengthen the reach, applicability and effectiveness of advice to policymakers as to how to improve policy implementation processes. We therefore urge scholars and the EC alike not to study these governance challenges in isolation, but in conjunction.

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### **Figures**

FIGURE 1

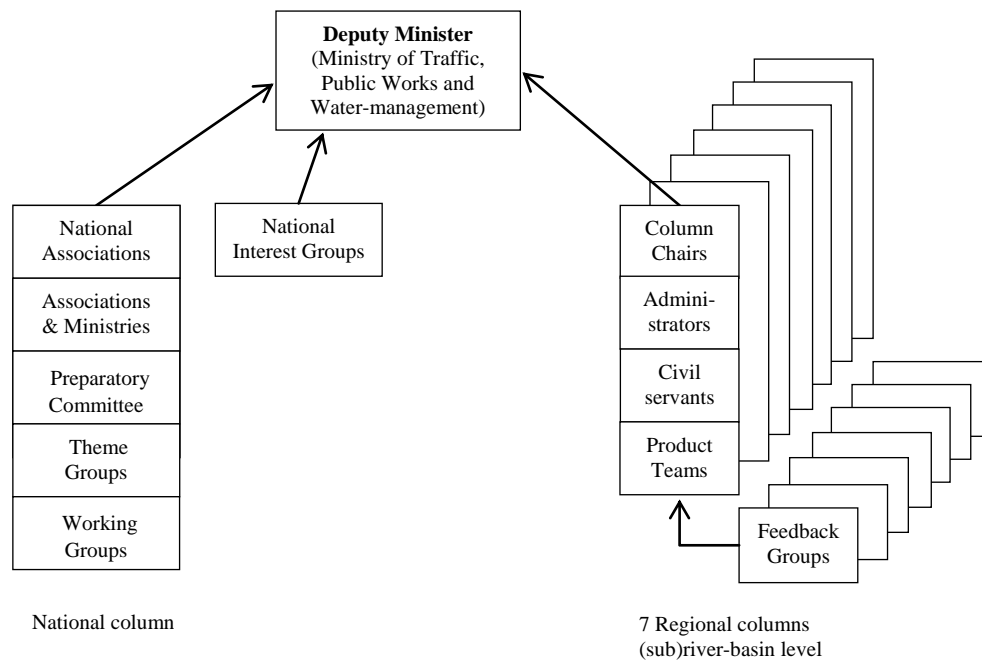


Figure 1 – Simplified overview of Dutch WFD-implementation structure  
(Source: Anonymous, 2010)

FIGURE 2

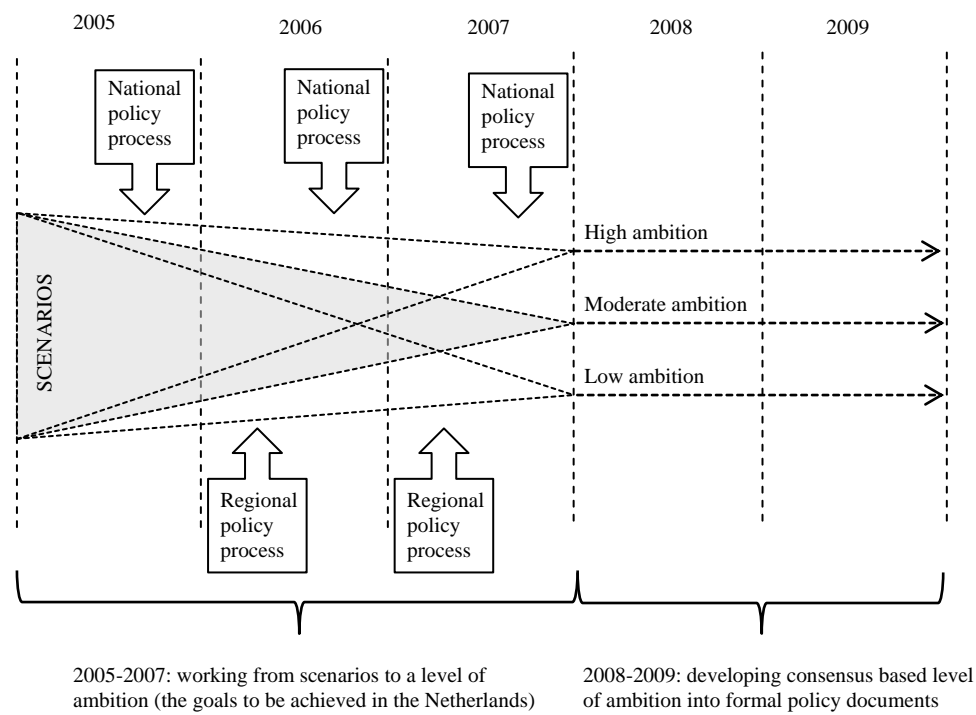


Figure 2 – Visualization of the convergent planning (Source: Anonymous, 2010)

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