

Ongoing work with EU Directives related to Contaminated Land Management

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- Contaminated Land Management & EU Directives
- Soil Protection Draft Directive
- Review of the IIPC Directive
- New Waste Directives / Excavated soils



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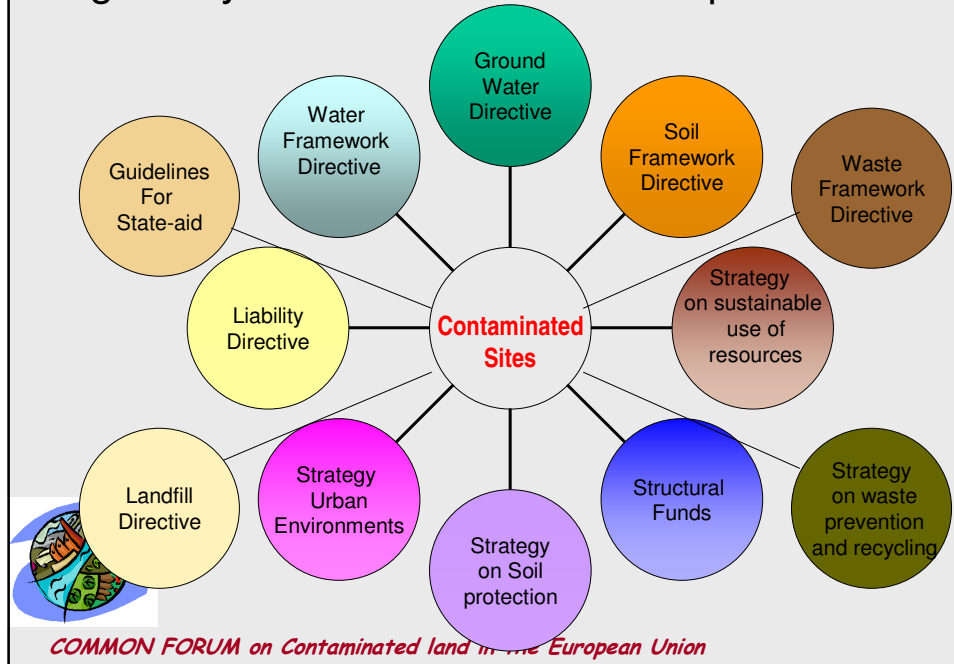
Evolution of contaminated land policies at national level

- **First generation: the early days 1980**
 - Drastic risk control,
 - systematic approaches (protocols, national inventories),
 - priorities focussed on soil contamination
- **Second generation: contaminated land risk assessment 1990**
 - Possibilities for tailor-made approaches
 - Cost effective investigations
 - Accuracy and precision where it is most needed.
 - Do not investigate what is already known
 - Landuse becomes very important in assessment and decision making
- **Third generation: Risk Based Land Management and solution design 2000**
 - Integration with spatial planning, water management, socio-economy
 - Economic development vs protection of the Environment
 - Landuse becomes even more important



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Regulatory environment at the European level



Main focus at the time

- Proposal of a Soil Protection Directive
- Current review of the IPPC
- New Wastes Directive



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The bases of the European Commission's proposal

- ❖ **All types of soils** are considered
- ❖ **All soil degradation processes** are tackled (with the exception of soil biodiversity loss -> more RTD)
- ❖ **Soil functions** are at the core of the proposal
- ❖ Soils should be **used** and not put under a glass cover
- ❖ The Directive will bring about an improvement **compared** to existing practices and national legislation
- ❖ Emphasis on **knowledge** and **monitoring** prior to taking measures to avoid squandering money and resources



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> 5

Soil Threats addressed in EU soil policy



Sealing



Organic matter decline



Salinisation



Contamination

Erosion



Compaction



Landslides



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The Structure of the EC proposal



The Inter-institutional debate

- Favourable opinions:
 - Committee of the Regions, February 2007
 - European Economic and Social Committee, April 2007
 - European Parliament : Adoption in November 2007, with amendments providing more flexibility in some provisions and strengthening others
- Portuguese Presidency:
 - Intense Discussions
 - Substantial changes for trying to find a compromise
 - No Political agreement on the Ministers Council the 20 December 2007:
 - Blocking minority formed by Austria, France, Germany, Netherlands and United Kingdom



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Blocking Minority MS Statements

- Experienced countries having yet a National Approach, integrated in other policies (water, health, IPPC, food, ...)
 - **Austria**: Soil contamination treated on a different way, problems on costs (related to AppendixII)
 - **France**: problem on methodology and goals (too much emphasis on inventory and too little on prioritisation and remediation)
 - **Germany**: concern on several chapters, but mainly on Contamination; needs of common agreement on goals to be reached, evolving process necessary
 - **Netherlands**: needs on all threats, but at appropriate levels, difficulties for implementing EU legislation, bad timing,
 - **United Kingdom**: needs of Proportionality, too time and costs consuming, focus on specific issues that are not necessarily priorities



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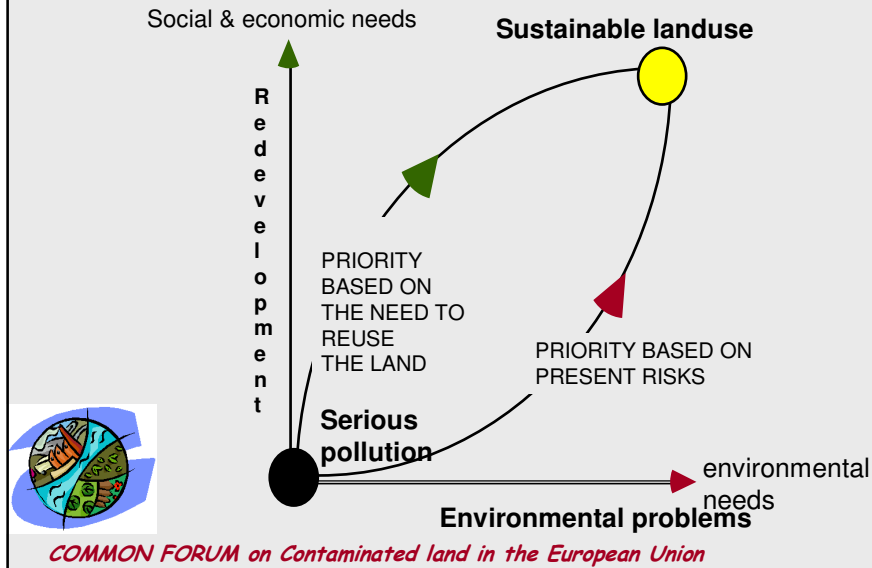
French Proposal

- Text targeted on clear objectives
- Respect subsidiarity principle and allow member states to use their policy if successful
- Coherence with other directives (for risk assessment but not only)
 - Air, water (WFD, GWD, drinkable water), waste, environmental liability, ailments, etc
 - If needed suggest to modify them
 - IPPC for risk prevention
- Make the difference between different pollutions : old ones, new ones and future and derive the best way to deal them (old one -> urban land management, new one -> ELD, prevention -> IPPC).



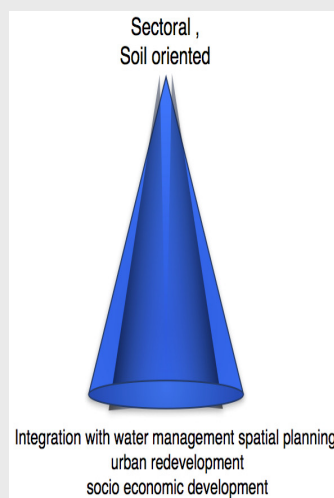
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French Proposal Principles



Contaminated land policy life cycle

- Phase 1: recognition of an environmental problem with soil
- Phase 2: policy making: how to assess the soil problem
- Phase 3: finding solutions in a socio-economic context (requires integration with other policies and practices)



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CURRENT STATE OF DISCUSSION

- Transmission to the Czech Presidency
- 5 Working parties planned (two already done)
- First Czech proposal:
 - Chapter III / Contamination with two options of wording (the Portuguese –A, the French – B)
 - No new proposal from Czechs
- Proposal for a vote at the June European Council



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The IPPC Directive Review

- Soil related articles:
 - Art.3 – Definitions
 - Art.12 – General principals for basic obligations of the operator
 - Art.13 – Applications for permits
 - Art.14 – BAT Reference Documents
 - Art. 15 – Permit Conditions
 - Art.17 – Monitoring requirements
 - Art. 23 – Site closure and remediation



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IPPC Review / Discussion points

- Definition of Dangerous Substances
 - Different from the one used in the Soil Protection Directive (SPD)
 - IPPC refers to soil and groundwater <--> SPDD refers to soil
 - Annex II SPDD refers to the IPPC annex I (still in discussion)



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IPPC Review / Discussion points

- Baseline report
 - necessary 'where applicable'
 - what is meant by 'where applicable'
 - how to define applicable?
 - reference to art. 23: 'where applicable' = use, production or release of dangerous substances having regard to the possibility of soil and GW contamination at the site of the installation ?
 - used for determination of the 'initial state' (art. 23)
 - can we still speak about initial state when updating a permit
 - which content? <-> *Soil Status Report of the Soil Protection directive*



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IPPC Review / Discussion points

- **Periodic monitoring**
 - periodic monitoring not for all installations, reference (art. 15(d)) to dangerous substances likely to be found ...;
 - if monitoring is required, it has to be periodic
 - frequency of at least every 7 years
- **Monitoring of soil and groundwater and BREF-documents**
 - How to tackle monitoring of soil and groundwater and remediation of the site in BREF-documents?
- **Should monitor IPPC plant integrity and not only environmental impacts (too late!)**



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IPPC Review / Discussion points

- **Remediation to initial state from baseline report**
 - zero-tolerance as a principle
 - how to deal with small elevation of concentrations not reaching remediation standards?
 - what with update of a permit?
 - only risk approach when baseline report wasn't necessary
 - Art. 23.4: does this imply that all operators have to conduct a soil investigation at definitive cessation?



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New waste directive / Soil related issues

- New waste directive will enter into force this year.
 - National implementation before end of 2010
- According to Article 2 (*Scope*) para 1 subpara (b) unexcavated contaminated soil is excluded from the scope of WFD.
- According to the subpara (c) uncontaminated soil excavated in the course of construction activities where it is certain that the material will be used for the purpose of construction in its natural state on the site which it was excavated is also excluded from the scope.
 - BUT what if it is reused somewhere else?
 - It is either waste - permit / notification needed for the reuse
 - Or not - if no waste status



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Directive on wastes from extractive industry – inert waste

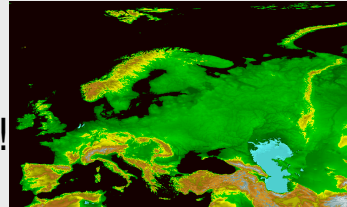
- Directive on the management of waste from extractive industry (2006/21/EC)
 - Criteria for "inert waste" will be given in comitology procedure (TAC-committee)
- Draft proposal for the criteria
 - One part of the criteria: **National treshold values for defining uncontaminated soil / national background values!!**



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WHAT DOES HARMONIZATION IMPLY?

- One set of SQSs? No!!
- The same blueprint? No!



- Toolbox, including
 - standardised tools
 - flexible tools



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Needs for Harmonisation?

- **Geographical level: Impossible! Too different**
 - Soil / aquifer materials
 - Climate,
 - Vegetable, food and water consumptions
 - Land use scenarios (time scale options, ...)
- **Technical level:**
 - Tool box for Risk Assessment, with several models, different levels of details
 - Common protocol for choosing the appropriate models
 - Common set of exposure factors, reference doses?
 - Recommendations for i.e. use of safety factors? Taking into consideration background levels?
- **Political level:**
 - Acceptable risk for different land uses?
 - Targets to be protected (Human Health, Ecosystems? Ground water, Surface waters, Others?)
 - Substances to be covered / excluded



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Concluding remarks

- Persistent needs for :
 - Collaboration:
 - Not reinventing the wheel!
 - Avoid the errors made in the past!
 - How to tackle the same problems!
 - Identification of the best solutions!
 - Research and development: i.e.
 - Detection methods and fast & cost effective screening methods
 - Bioavailability quantification
 - Acceptance of new innovative remediation techniques



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- Thanks for your attention!



- More information on www.commonforum.eu



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