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DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council
establishing a framework for the protection of soil and amending Directive
2004/35/EC

(COM(2006)0232 – C6-0307/2006 – 2006/0086(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Cristina Gutiérrez-Cortines

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Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the
common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the
common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council establishing a framework for the protection of soil and amending Directive 2004/35/EC (COM(2006)0232 – C6-0307/2006 – 2006/0086(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM (2006)0232) ^[1],
 - having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0307/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Legal Affairs, the Committee on Agriculture and Rural Development and the Committee on Industry, Research and Energy (A6-0000/2006),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1

Recital 4

(4) The Communication of the Commission to the European Parliament and the Council “Towards a Thematic Strategy on Soil Protection” identifies the main eight soil degradation processes to which soils in the EU are confronted. These are erosion, organic matter decline, contamination, salinisation, compaction, soil biodiversity loss, sealing, landslides and flooding. *The current scientific knowledge on soil biodiversity and its behaviour is too limited to allow for specific provisions in this Directive aiming at its protection. The prevention and mitigation of the effects of floods have been addressed by the proposal for a Directive of the European Parliament and the Council on the assessment and management of floods¹.*

(4) The Communication of the Commission to the European Parliament and the Council “Towards a Thematic Strategy on Soil Protection” identifies the main eight soil degradation processes to which soils in the EU are confronted. These are erosion, organic matter decline, contamination, salinisation, compaction, soil biodiversity loss, sealing, landslides and flooding.

¹ COM(2006)0015.

Justification

Since the amendments also contain proposals related to biodiversity and to the prevention and mitigation of effects of floods, this sentence should be deleted.

Amendment 2
Recital 5

(5) Soil variability is very high in the Community and enormous differences exist in its structural, physical, chemical and biological state both within individual profiles and between soils. These diverse conditions and needs in the Community should be taken into account as they require different specific solutions for ***the identification of areas at risk, definition of targets and execution of appropriate measures to ensure protection of soil.***

(5) Soil variability is very high in the Community and enormous differences exist in its structural, physical, chemical and biological state both within individual profiles and between soils. These diverse conditions and needs in the Community should be taken into account as they require different specific solutions for ***addressing soil degradation.***

Justification

Other amendment in Article 2 replaces the "risk areas" by "priority areas". To make the recitals shorter the last part of the sentence has been shortened.

Amendment 3
Recital 6

(6) Community legislation, for instance in the fields of waste, chemicals, industrial pollution prevention and control, climate change, water, and agriculture and rural development, ***includes some provisions on soil protection, but these are neither designed nor sufficient to protect all soils against all degradation processes. Hence there is a need for a coherent and effective*** legislative framework, providing for common principles and objectives aiming at protection and sustainable use of soil in the Community.

(6) Community legislation, for instance in the fields of waste, chemicals, industrial pollution prevention and control, climate change, water, and agriculture and rural development, ***can contribute to soil protection and complement the*** legislative framework ***in this Directive*** providing for common principles and objectives aiming at protection and sustainable use of soil in the Community. ***Hence there is a need for a coherent and integrated approach.***

Justification

The current legislation can contribute to soil protection and can complement the framework directive.

Amendment 4
Recital 7

(7) Soil should be used in a sustainable manner which preserves its capacity to

deleted

deliver ecological, economic and social services, while maintaining its functions so that future generations can meet their needs.

Justification

To shorten the recitals, the content of this recital has been merged with recital 8.

Amendment 5
Recital 8

(8) The aim of this Directive is to ensure the protection of soil, based on *the principles of preservation of soil functions, prevention of soil degradation, mitigation of its effects, restoration of degraded soils and integration into other sectoral policies by establishing a common framework and actions.*

(8) The aim of this Directive is to ensure the protection of soil based on *common objectives and respecting the existing national and Community legislation, in order to use the soil in a sustainable manner so that both current and future generations can meet their ecological, economic and social needs.*

Justification

The content of recital 7 and 8 has been merged.

Amendment 6
Recital 9

(9) A common framework *is needed in order to articulate the efforts of Member States to improve the protection of soils and its sustainable use, to control the transboundary soil degradation effects, to protect aquatic and terrestrial ecosystems, and to preclude* distortion of competition between economic operators.

(9) A common framework *enables* Member States *and the regional and local authorities to protect their soils without* distortion of competition between economic operators. *At the same time, it delivers guarantees and transparency within the internal soil market in the Member States.*

Justification

Also the regional authorities can have an important role in soil policy. A common framework would legislate and simplify the security and transparency of the European soil market.

Amendment 7
Recital 10

(10) Since *the objectives of the action to be taken, namely to establish a common framework for the protection of soil, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level by reason of the scale of the problem and its implications in respect of other Community legislation* on nature *protection*, water *protection*, food safety,

(10) Since *soil degradation can have severe impacts* on nature, water, food safety, climate change, agriculture and human health, *and since, despite existing Community legislation, soil degradation is likely to increase, there is a need for a framework directive that enables the protection of soil in all Member States*, in accordance with the principle of subsidiarity as set out in Article 5 of the

climate change, agriculture and ***areas of common interest, such as human health protection, the Community may therefore adopt measures***, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

Justification

The framework directive should enable the protection of soil in all Member States.

Amendment 8 Recital 11 a (new)

(11a) Agriculture has always contributed positively to maintaining the structure of soil and its characteristics, as well as being the indispensable mechanism for conservation of the organic quality of the soil and helping to preserve the vegetal layer and to avoid desertification.

Justification

Agriculture has an important role in the protection of the soil and many traditional measures for the protection of soil have been created and voluntarily applied by farmers for centuries.

Amendment 9 Recital 11 b (new)

(11b) In order to avoid any overlap with existing agricultural and environmental legislation, and given the subsidiarity principle related to the implementation of ecoconditionality, each Member State may decide to implement ecoconditionality taking into account its own climate, agriculture and soil characteristics.

Justification

The implementation of ecoconditionality should be left to the Member States, thus avoiding new burdens on agriculture and on the farmers.

Amendment 10 Recital 12

(12) In contrast to air and water, soil is mainly privately owned in the Community. Nevertheless it is a natural resource of common interest that has to be protected

(12) In contrast to air and water, soil is mainly privately owned in the Community. Nevertheless it is a natural resource of common interest that has to be protected

for future generations. In the public interest, therefore, land users should be **required** to take precautionary measures **when their use of the soil can be expected to significantly hamper soil functions.**

for future generations. In the public interest, therefore, land users should be **encouraged** to take precautionary measures **to prevent soil degradation.**

Justification

The recitals should be phrased more positive. Land users should be encouraged to take measures that prevent soil degradation.

Amendment 11
Recital 12 a (new)

(12a) Fertility of the soil is the basis of life. The aim of all agricultural activity must be to maintain and improve that fertility.

Justification

Soil fertility is the first indicator of quality and its loss is one of the main problems facing Europe as a result of desertification and erosion.

Amendment 12
Recital 13

(13) Sealing is **becoming significantly more intense in the Community as a result of urban sprawl and increasing demand for land from many sectors of the economy, and this calls for a more sustainable use of soil.** Appropriate measures are needed to limit soil sealing, **for instance by rehabilitating brownfield sites, thus reducing the depletion of greenfield sites.** Where sealing **does** occur Member States should **provide** for construction and drainage techniques that would allow as many soil functions as possible to be preserved.

(13) Sealing is **increasingly of concern because it can inhibit those soil functions that deliver services vital to human activities and to the survival of ecosystems without contributing to sustainable development in accordance with the Renewed EU Sustainable Development Strategy set out in the Council conclusions of 9 June 2006¹.** This calls for a more sustainable use of soil. Appropriate measures are **therefore** needed to limit soil sealing **arising from development projects which are likely to significantly impede soil functions and which do not contribute to the achievement of sustainable development.** Where sealing **is to occur in such circumstances,** Member States should **ensure its effects are mitigated, for example by providing** for construction and drainage techniques that would allow as many soil functions as possible to be preserved, **and that it does not cause any adverse environmental effects that override the benefits.**

¹ Council of the European Union 10117/06.

Justification

This amendment provides a clearer explanation why sealing is an area of concern and it makes a reference to the Sustainable Development Strategy.

Amendment 13

Recital 14

*(14) A targeted and efficient soil protection policy **should be based on the knowledge of where degradation is occurring. It is recognised that certain degradation processes, such as erosion, organic matter decline, compaction, salinisation and landslides, occur only in specific areas which are more at risk of such processes. This requires the identification of such risk areas.***

*(14) A targeted and efficient soil protection policy **requires common soil protection objectives but requires at the same time the possibility for Member States and regional and local authorities to take measures at the appropriate level and scale, and to identify priority areas based on scientific knowledge about the local soil characteristics, soil degradation processes and the environmental, economic and social circumstances. There is a need for an effective exchange of information on the state of the art science in the Member States, the best practices for the identification of the priority areas and the codes of good practice.***

Justification

This recital clarifies that common soil protection objectives are needed, but that it should be left to the Member States and the regional and local authorities to decide on the measures. Furthermore some of the content of recital 15, 16, 17 is inserted in order to reduce the amount of recitals.

Amendment 14

Recital 15

*(15) **To ensure a coherent and comparable approach in the different Member States, identification of risk areas for erosion, organic matter decline, compaction, salinisation and landslides should be based on a common methodology which includes elements known to be driving forces for the various degradation processes.*** *deleted*

Amendment 15

Recital 16

*(16) **In the risk areas identified, measures should be taken to prevent further soil degradation by reducing the risk of it occurring and restoring degraded soils in order to preserve soil functions.*** *deleted*

Amendment 16

Recital 17

(17) Action is to be taken under the responsibility of Member States, at the most appropriate level, based on the establishment of risk reduction targets and programmes of measures to reach those targets.

deleted

Amendment 17
Recital 18

(18) *Such* programmes of measures should take into account the social and economic impact of the measures envisaged; they should be reviewed periodically and may build on obligations, plans and programmes already set up under Community legislation or international agreements.

(18) Programmes of measures ***and codes of good practice*** should take into account the social and economic impact of the measures envisaged; they should be reviewed periodically and may build on obligations, plans and programmes already set up under Community legislation ***and funding*** or international agreements.

Justification

Programmes of measures may also build on obligations, plans and programmes already set up under Community funding.

Amendment 18
Recital 19

(19) This Directive should contribute to halting desertification, ***which results from concurrent degradation processes, and soil*** biodiversity *loss*, and enhance cooperation in the implementation of the United Nations Convention to Combat Desertification ***and*** the Convention on Biological Diversity to which the Community is a party, and will enhance the implementation of these international environmental agreements.

(19) This Directive should contribute to halting desertification ***and the decline of*** biodiversity, ***and to mitigating and adapting to climate change, which are international environmental problems, with severe local and regional impacts, where soil degradation plays a significant role***, and ***should*** enhance cooperation in the implementation of the United Nations Convention to Combat Desertification, the Convention on Biological Diversity, ***the Framework Convention on Climate Change and the Kyoto Protocol*** to which the Community is a party, and will enhance the implementation of these international environmental agreements.

Justification

There are also important links between soil protection and climate change. This recital should make a reference to the UNFCCC and the Kyoto Protocol.

Amendment 19
Recital 22

(22) In order to successfully prevent and limit risk to human health and the environment stemming from soil

(22) In order to successfully prevent and limit risk to human health and the environment stemming from soil

contamination, ***Member States should identify*** the sites which according to their assessment are posing a significant risk in this regard. ***Given the number of sites which are likely to be contaminated, their identification requires a systematic step-by-step approach. To monitor progress on the identification of the contaminated sites a timetable is needed.***

contamination, ***priority needs to be given to the identification and remediation of*** the sites which according to their assessment are posing a significant risk in this regard. ***The Member States should establish a process, including a timetable, for the assessment of the risks, the identification of the sites, the information to the public, the information to potential buyers in the case of land transactions, the order of priority and the funding of remediation. This process should prevent any overlap with existing national and Community legislation and should only add additional requirements if the current legislation is insufficient according to the assessment of the Member State. A thorough exchange of information is needed to promote the best practices for risk assessment, identification, information to the public and remediation.***

Justification

This amended recital 22 replaces recital 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, because it is sort of summarising these recitals, in order to shorten the amount of recitals.

Amendment 20 Recital 23

(23) To support the identification of contaminated sites and to secure a common approach, it is necessary to establish a common list of activities which can have a significant potential to cause soil contamination. This common list of potentially soil polluting activities may be complemented by other more comprehensive lists adopted at national level.

deleted

Justification

Replaced by amendment 19.

Amendment 21 Recital 24

(24) The identification of contaminated sites should be reflected in a national inventory of contaminated sites to be updated regularly and made available for the public to consult. Previous and current efforts by Member States to identify contaminated sites should be taken into

deleted

account.

Justification

Replaced by amendment 19.

Amendment 22
Recital 25

(25) In order to assist in the rapid identification of contaminated sites, the owner of a site where, according to official records such as national registers or cadastres, a soil-polluting activity has taken or is taking place, or the prospective buyer should, prior to completing the land transaction, provide relevant information on the status of the soil to the competent authority and to the other party in the transaction. The provision of such information at the time when a land transaction is being planned, will help to speed up the completion of the inventory of contaminated sites. It will also make the prospective buyer aware of the state of the soil and enable him to make an informed choice. *deleted*

Justification

Replaced by amendment 19.

Amendment 23
Recital 26

(26) Taking into account the polluter pays principle, Member States should ensure that action is taken to remediate the contaminated sites identified within their national territory. *deleted*

Justification

Replaced by amendment 19.

Amendment 24
Recital 27

(27) A National Remediation Strategy should be established, in particular for the purposes of setting remediation targets and the order of priority in which sites should be remediated. *deleted*

Justification

Replaced by amendment 19.

Amendment 25
Recital 28

(28) In those contaminated sites where the polluter cannot be found, cannot be held liable for the pollution under national or Community legislation or cannot be made to bear the costs of remediation, also known as orphan sites, responsibility for reducing risk to human health and the environment should fall on the Member States. For those purposes, Member States should put in place specific funding mechanisms to ensure a durable financial source for the remediation of such sites. ***deleted***

Justification

Replaced by amendment 19.

Amendment 26
Recital 29

(29) Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage¹ establishes that, for orphan sites, remedial action may be taken by the competent authority as a last resort. That Directive should therefore be amended in order to align it with the remediation obligations laid down in this Directive. ***deleted***

¹ OJ L 143, 30.4.2004, p. 56.

Justification

Replaced by amendment 19.

Amendment 27
Recital 30

(30) There is little public awareness of the importance of soil protection, and it is therefore necessary to introduce measures to improve knowledge, exchange of information and best practices. ***deleted***

Justification

Replaced by amendment 19.

Amendment 28
Recital 31

(31) The success of this Directive 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, pursuant to Community obligations under the UNECE Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. Thus, for the preparation, modification and review of the programmes of measures on risk areas and the National Remediation Strategies, it is appropriate to provide for the application of Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC¹. ***deleted***

¹ OJ L 156, 25.6.2003, p. 17.

Justification

Replaced by amendment 19.

Amendment 29
Recital 32

(32) It is recognised that different risk assessment methodologies for contaminated sites are currently being applied in Member States. In order to move towards a common approach ensuring neutral conditions of competition and a coherent soil protection regime, a thorough exchange of information is needed to establish the suitability of harmonising some of the elements of risk assessment as well as to further develop and improve the methodologies on ecotoxicological risk assessment. ***deleted***

Justification

Replaced by amendment 19.

Amendment 30
Recital 33

(33) Provision should be made to allow the rapid adaptation of methods of identification of risk areas in Member States including regularly reviewing the common elements therein. *deleted*

Justification

Replaced by amendment 19.

Amendment 31
Recital 34

(34) Provisions should be adopted as regards the data exchange formats and data quality criteria and these would need to be consistent with the establishment of any infrastructure for spatial information in the Community. *deleted*

Justification

Replaced by amendment 19.

Amendment 32
Article 1, paragraph 1

1. This Directive establishes a framework for the **protection of soil and the preservation of the capacity of soil to perform any of** the following environmental, economic, social and cultural functions:

- (a) **biomass production, including in agriculture and forestry;**
- (b) storing, filtering and transforming nutrients, substances and water;
- (c) **biodiversity pool, such as habitats, species and genes;**
- (d) physical and cultural environment for humans and human activities;
- (e) source of raw materials;
- (f) acting as carbon pool;
- (g) archive of geological and archeological heritage.

To that end, it lays down measures for the prevention of soil degradation processes,

1. This Directive establishes a framework for the **sustainable use of soil, which is a non-renewable resource and a platform for** the following environmental, economic, social and cultural functions:

- (a) **a basis for life and a habitat for animals, plants and soil biodiversity;**
- (b) storing, filtering and transforming nutrients, substances and water;
- (c) **a basis for biomass production in agriculture and forestry;**
- (d) physical and cultural environment for humans and human activities, **including cities and infrastructure;**
- (e) source of raw materials;
- (f) acting as carbon pool;
- (g) archive of geological, **geomorphological** and archeological heritage.

To that end, it lays down measures for **the sustainable use of soil through inter alia**

both occurring naturally and caused by a wide range of human activities, which undermine the capacity of a soil to perform those functions. **Such** measures include the mitigation of the effects of **those** processes, and the restoration and remediation of degraded soils **to a level of functionality consistent at least with the current and approved future use.**

the prevention **or minimisation** of **avoidable** soil degradation processes, both occurring naturally and caused by a wide range of human activities, which undermine the capacity of a soil to perform those functions. **It lays down measures that improve the soil characteristics and functions, where appropriate. The** measures include the mitigation of the effects of **the soil degradation** processes, and the restoration and remediation of degraded soils.

Justification

This amendment further elaborates on the functions of the soil and the fact that the soil is a non-renewable source that should be used in a sustainable way.

Amendment 33 Article 1, paragraph 2

2. This Directive shall apply to soil forming the top layer of the earth's crust situated between the bedrock and the surface, **excluding groundwater as defined in Article 2(2) of Directive 2000/60/EC of the European Parliament and of the Council¹.**

2. This Directive shall apply to soil forming the top layer of the earth's crust, situated between the bedrock and the surface.

¹ OJ L 327, 22.12.2000, p. 1.

Justification

Since many countries have an integrated approach towards soil protection, it should be left to the Member States whether they want to include groundwater in this approach.

Amendment 34 Article 2, point (2)

(2) 'dangerous substances' means substances or preparations within the meaning of Council Directive 67/548/EC and Directive 1999/45/EC of the European Parliament and of the Council.

(2) 'dangerous substances' means substances or preparations within the meaning of Council Directive 67/548/EC and Directive 1999/45/EC of the European Parliament and of the Council, **which may cause harmful effects to soil functions.**

Justification

The relation with the harmful effects to soil functions should be clarified.

Amendment 35 Article 2, point (2 a) (new)

(2a) 'compaction' means a process of densification in which total and air-filled

porosity and permeability are reduced, inducing severe and long term changes in soil structure.

Justification

The term "compaction" requires further clarification.

Amendment 36
Article 2, point (2 b) (new)

(2b) 'valuable soils' means soils meriting protection due to their specific characteristics, structures, outstanding ecological, cultural and/or historical value or due to their use.

Justification

This amendment introduces the concept of valuable soils. This concept is introduced to recognise the specific value certain soils can have for certain specific ecosystems, communities and cultures. It is left to the Member States to identify these soils, according to their own ideas.

Amendment 37
Article 2, point (2 c) (new)

(2c) 'priority areas which would need special protection' means areas where, due to their vulnerability caused by the soil types, climatic conditions and land management practices, there is decisive evidence or legitimate grounds for suspicion that one of the degradation processes listed in Article 6 has occurred or is likely to occur.

Justification

In Article 6 the negative term "risk areas" has been changed in "priority areas". This definition clarifies the meaning of priority areas.

Amendment 38
Article 2, point (2 d) (new)

(2d) 'polluted site' means a site where there is a confirmed presence on or in the soil, caused by man, of substances of such a level that Member States consider the soil poses a significant risk to human health or the environment, taking the current and approved future use of the site into account.

Justification

A definition of sites that are polluted by man is needed. The term "polluted" is chosen to make the distinction with contamination that is derived from geogenic sources, such as parent material and volcanic activity.

Amendment 39
Article 2, point (2 e) (new)

(2e) 'geogenically contaminated soil' means a soil where there is a confirmed presence, caused by geogenic sources such as parent material and volcanic activity, of substances of such a level that Member States consider they may pose a significant risk to human health or the environment, taking the current and approved future use of the soil into account.

Justification

Also contamination that is not caused by man, but by geogenic sources such as parent material and volcanic activity, can pose significant risk to human health or the environment. Therefore these soils should also be defined in this directive.

Amendment 40
Article 3

*In the development of sectoral policies likely to exacerbate or reduce soil degradation processes, Member States shall **identify, describe and assess the impacts of such policies on these processes, in particular in the areas of regional and urban spatial planning, transport, energy, agriculture, rural development, forestry, raw material extraction, trade and industry, product policy, tourism, climate change, environment, nature and landscape.***

Member States shall make public those findings.

*In the development of sectoral policies likely to exacerbate or reduce soil degradation processes, **and in the development of policies to protect soil functions,** Member States shall **establish an integrated and systematic approach to ensure that the relevant provisions in existing directives, such as the Birds Directive, Habitats Directive, Water Framework Directive, Groundwater Directive, Mining Waste Directive, Strategic Environmental Assessment Directive and Impact Assessment Directive are met, and that the relevant links between the directives are identified and taken into account.***

Justification

Since several other directives have direct or indirect links with soil protection, Member States should ensure in a more integrated and systematic approach that the relevant provisions in the existing directives are met.

Amendment 41
Article 3, paragraph 2 a (new)

Where appropriate, Member States shall endeavour to integrate measures or policies that preserve or improve the soil's function to act as a carbon pool in their future soil policies or strategies, based on the latest research results and technological improvements.

Justification

The function of the soil to act as a carbon pool is included in Article 1. This important role of the soil is not sufficiently addressed in the Commission proposal. Member States should endeavour to integrate measures to preserve or improve this function in their soil policies or strategies, based on the latest scientific results.

Amendment 42
Article 4

Member States shall ensure that any land user whose actions affect the soil in a way that can reasonably be expected to hamper significantly the soil functions referred to in Article 1(1) is obliged to take precautions to prevent or minimise such adverse effects.

1. Member States shall ensure that any land user whose actions affect the soil in a way that can reasonably be expected to hamper significantly the soil functions referred to in Article 1(1) is obliged to take **proportionate** precautions to prevent or minimise such adverse effects, **as far as this is reasonable with regard to the current and approved future use.**

Justification

The precautions need to be proportionate, taking into account the current and approved future use.

Amendment 43
Article 4, paragraph 1 a (new)

1a. Member States shall identify valuable soils as defined in Article 2 in their national territory, based on criteria to be established by the Member State or the regional or local authorities. Bearing in mind their legislative capacities and responsibilities and without prejudice to the subsidiarity principle, Member States may promote measures and policies to increase awareness and scientific knowledge about these soils and to protect, preserve and improve their characteristics and functions where possible, especially where those soils, according to the assessment of the Member States, contribute to geological diversity or where they are a platform for valuable historical settlements, rural architecture and natural and cultural landscapes.

Among the precautionary measures Member States may develop digital maps about the identified valuable soils, to indicate where protection is needed.

Justification

The Member States should be consistent in their common policies such as the European scenery card and the existence of a common cultural heritage, recognising the irreversible destruction of the landscape and of cultural heritage.

Amendment 44

Article 4, paragraph 1 b (new)

1b. For the purpose of paragraph 1 and within five years from [transposition date], Member States shall develop voluntary codes of good practice as regards soil protection for those activities which may be reasonably expected to hamper significantly the soil as a platform for the functions referred to in Article 1. These codes of good practice may build on existing national or Community codes and may contain the elements provided for in Annex -I.

Within three years from [transposition date], the Commission shall facilitate the distribution and exchange of information on the already existing legislation or codes of good practice in the Member States as regards the protection of the functions referred to Article 1, including the cultural heritage, natural parks and geologically valuable zones.

Justification

The precautionary principle is a key principle of this directive. Member States should therefore develop codes of good practice as regards soil protection.

Amendment 45

Article 5

For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall take appropriate measures to limit sealing or, where sealing is to be carried out, to mitigate its effects in particular by the use of construction techniques and products which will allow as many of those functions as possible to be maintained.

1. Where a proposed development project involves soil sealing, Member States shall take appropriate measures to limit sealing where:

(a) the project is of a type listed in either

Annex I or Annex II to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment¹ and requires an assessment under that Directive;

(b) the assessment indicates that there are likely to be impacts arising from sealing that significantly impede one or more of the soil functions listed in Article 1(1); and
(c) the project does not contribute to the achievement of sustainable development.

2. Where a project which meets each of the criteria listed in paragraph 1 is to be carried out, Member States shall take appropriate measures to mitigate the effects of sealing in particular by the use of construction techniques and products which will allow as many of the functions referred to in Article 1(1) as possible to be maintained.

3. Member States shall decide on the measures which are appropriate taking into account the costs and benefits of such measures.

4. As sealing is an irreversible process, Member States shall develop codes of good practice on sealing that:

- preserve river basins and the natural flow of water;*
- prevent increased flood risks, resulting from sealing;*
- promote proper access to green areas in expanding cities;*
- preserve valuable geomorphological soil structures, characteristic landscapes and coastal areas;*
- preserve archaeological sites, prehistoric caves and historical sites;*
- avoid the visual impacts of extractive industries.*

¹ OJ L 175, 5.7.1985, p. 40.

Justification

It needs to be better specified in what cases Member States need to take measures to limit sealing. Furthermore Member States should develop codes of good practice to deal with several possible harmful effects of sealing.

Amendment 46
 Article 5 a (new)

Article 5a

Methodology

- 1. The state of the soil shall be monitored taking into account available information and, when necessary, generating new information using new technologies. In particular, Member States shall encourage the use of digital technologies and digital mapping which will allow an easy and efficient exchange of soil information and will render monitoring more cost-effective.*
- 2. For the identification of priority areas pursuant to Article 6, Member States may rely on empirical evidence or on modelling. If modelling is used, the models must be validated by comparing the results on the basis of empirical scientific data which have not been used for the development of the model itself. Member States shall be allowed to use the information gathered with the new technologies mentioned in paragraph 1 for the identification of priority areas.*
- 3. In order to avoid administrative duplication and to improve coordination, Member States shall, in cooperation with the Commission, endeavour to agree on a common reporting format within 12 months after the entry into force of this Directive.*
- 4. The monitoring scale shall be determined at the discretion of the Member States, but shall be at least 1:250.000 for areas pursuant to Article 6.*

Justification

The diagnosis and catalogues of soils need to be done under scientific and objective criteria. At the same time, respecting the subsidiarity principle, the only way to guarantee a minimum level of coordination and exchange of information is to have an agreed common reporting format and a scale for the monitoring.

Amendment 47 Article 6, title

Identification of **risk** areas **of** erosion, organic matter decline, compaction, salinisation and landslides

Identification of **priority** areas **which need special protection against** erosion, organic matter decline, compaction, salinisation and landslides

Justification

The negative term "risk areas" has been replaced by the term "priority areas".

Amendment 48 Article 6, paragraph 1, introductory phrase

1. Within five years from [transposition date], Member States shall identify the areas in their national territory, ***at the appropriate level, where there is decisive evidence, or legitimate grounds for suspicion, that*** one or more of the following soil degradation processes ***has occurred or is likely to occur in the near future, hereinafter “the risk areas”***:

1. Within five years from [transposition date], Member States shall identify the ***priority*** areas in their national territory, ***as defined in Article 2, which need special protection against*** one or more of the following soil degradation processes:

Justification

The negative term "risk areas" has been replaced by the term "priority areas".

Amendment 49

Article 6, paragraph 1, point (f a) (new)

(fa) adverse effects of climate change on the soil, including an increase in water evaporation.

Justification

The adverse effects of climate change on the soil should be included in this article.

Amendment 50

Article 6, paragraph 1, subparagraph 2

For the purposes of that identification, Member States ***shall***, in respect of each of those soil degradation processes, use at least the elements listed in Annex I and shall take into account the effects of those processes in exacerbating greenhouse gas emissions and desertification.

For the purposes of that identification, Member States ***may***, in respect of each of those soil degradation processes, use the elements listed in Annex I and shall take into account the effects of those processes in exacerbating greenhouse gas emissions and desertification ***and furthering loss of the soil biodiversity in these areas.***

Justification

The loss of soil biodiversity should be included in this article.

Amendment 51

Article 6, paragraph 1 a (new)

1a. In identifying these areas, Member States shall take into account present land use practices which aim already at combating these degradation processes.

Amendment 52

Article 7

***Article 7
Methodology***

deleted

Member States may base the identification of risk areas on empirical evidence or on modelling. If modelling is used, the models must be validated by comparing the results on the basis of empirical data which have not been used for the development of the model itself.

Justification

This article can be deleted. The content has been inserted in the new Article 5a.

Amendment 53
Article 8, paragraph 1

1. For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall in respect of the risk areas identified in accordance with Article 6, ***draw up***, at the appropriate level, a programme of measures including ***at least risk reduction targets***, the appropriate measures for reaching those ***targets***, a timetable for the implementation of those measures and an estimate of the allocation of private or public means for the funding of those measures.

1. For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall, in respect of the areas identified in accordance with Article 6, ***ensure that***, at the ***geographical and administrative*** level ***they deem the most appropriate***, a programme of measures is ***drawn up*** including ***objectives***, the appropriate measures for reaching those ***objectives***, a timetable for the implementation of those measures and an estimate of the allocation of private or public means for the funding of those measures. ***The choice of the measures within the programme shall be left to the Member States.***

Justification

Since this is a framework directive the choice of the measures and the appropriate geographical and administrative level should be left to the Member States.

Amendment 54
Article 8, paragraph 1 a (new)

1a. In drawing up the programme referred to in paragraph 1, and with a view to preventing any duplication of efforts, Member States may build on obligations, plans and programmes already set up under national or Community legislation, including those set up pursuant to the Common Agricultural Policy, including Annex IV to Regulation (EC) No 1782/2003 on cross compliance, and in Regulation (EC) No 1698/2005 on rural development, or international agreements, and may take into account the measures listed in Annex Ia.

When drawing up and implementing the programme referred to in paragraph 1, Member States may establish a prioritisation of action according to the magnitude of the degradation process in their national territory and the effects of such degradation on climate change and desertification.

Justification

This new amendment makes the link with the existing national and Community legislation and inserts an Annex with possible measures that the Member States may take into account.

Amendment 55

Article 8, paragraph 2, subparagraph 2

Member States shall ensure that measures are cost-effective, technically feasible and shall carry out impact assessments, including cost-benefit analyses, prior to the introduction of the programmes of measures. ***deleted***

Justification

Since this is a framework directive, it should be left to the Member States what kind of measures they take.

Amendment 56

Article 8, paragraph 3

3. Where ***an area is at risk from*** different concurrent soil degradation processes, Member States may adopt a single programme in which appropriate ***risk reduction targets*** are to be set for all the ***risks*** identified together with the appropriate measures for reaching those ***targets***.

3. Where ***areas would need special protection against*** different concurrent soil degradation processes, Member States may adopt a single programme in which appropriate ***objectives*** are to be set for all the ***soil degradation processes*** identified together with the appropriate measures for reaching those ***objectives***.

Justification

These amendments are needed to ensure consistency with Article 6.

Amendment 57

Article 8 a (new)

Article 8a

Agricultural use of soil

1. Each Member State, in accordance with its climate, soil characteristics and agriculture, as well as its best agricultural practices, may decide upon its own agricultural policy in relation to the soil.

2. As regards the agricultural use of soil, Member States shall encourage the choice of crops and afforestation methods or programmes which have a beneficial effect on soil organic matter and soil fertility and which can prevent landslides and desertification.

3. Member States shall also support agricultural practices which favour the filtering and water retention capacity of the soil, with a view to preventing compaction and erosion.

4. The Commission and the Member States shall promote and exploit research in particular as regards the functions of the different crops in relation to climate change and carbon capture with the aim of integrating this scientific-based knowledge in the development of soil policy.

5. The use of compost shall be encouraged with the aim of maintaining soil fertility, enhancing soil organic matter levels and fighting erosion. For that purpose Member States shall adopt compost quality standards.

6. The development of the standards under cross compliance and the agri-environment measures under rural development aimed at protecting soil in the areas identified pursuant to Article 6 shall take into consideration the possible efforts and burden they may entail.

Justification

Since agriculture has always played an important role in the protection of the soil, a separate article should deal with the different aspects of this sector. This article leaves it completely up to the Member States how they want to support the role of agriculture for each of these aspects.

Amendment 58

Article 9

For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall **take** appropriate and proportionate measures **to** limit the intentional or unintentional introduction of dangerous substances on or in the soil, excluding those due to air deposition and those due to a natural phenomenon of exceptional, inevitable and irresistible character, in order to avoid accumulation that would hamper soil functions or give rise to significant risks to human health or the environment.

For the purposes of preserving the soil functions referred to in Article 1(1), Member States shall **ensure that** appropriate and proportionate measures **are taken at the appropriate administrative level that:**

(a) aim to prevent the intentional or unintentional introduction of dangerous substances on or in the soil by dumping, leaking or spilling;

(b) limit the intentional or unintentional introduction of dangerous substances on or in the soil, excluding those due to air deposition and those due to a natural phenomenon of exceptional, inevitable and irresistible character, in order to avoid accumulation that would hamper soil functions or give rise to significant risks to human health or the environment.

Amendment 59

Article 9, paragraph 1 a (new)

In order to comply with this Article, Member States shall in particular take steps to limit the deposition of dangerous substances onto land through water used for irrigation, use of fertilisers, and waste spread on land.

Justification

This amendment emphasises the importance of limiting the deposition of dangerous substances on land through water, fertilisers and waste.

Amendment 60

Article 10

Article 10

deleted

Inventory of contaminated sites

1. Member States shall, in accordance with the procedure laid down in Article 11, identify the sites in their national territory where there is a confirmed presence, caused by man, of dangerous substances of such a level that Member States consider they pose a significant risk to human health or the environment, hereinafter "contaminated sites".

That risk shall be evaluated taking into account current and approved future use of the land.

2. Member States shall establish a national inventory of contaminated sites, hereinafter "the inventory". The inventory shall be made public and reviewed at least every five years.

Justification

See amendments to Article 11.

Amendment 61
Article 11, paragraph 1

1. Each Member State shall designate a competent authority to be responsible for the identification of **contaminated** sites.

1. Each Member State shall designate competent authorities to be responsible for the identification of **polluted** sites.

Justification

The amendments to Article 11 are partly merging Articles 10, 11 and 12 and ensure that the Member States will set up a system to identify polluted soils. The amendments focus on the risks to human health and the environment and are less prescriptive than the Commission proposal on how the Member States need to identify the polluted areas.

Amendment 62
Article 11, paragraph 1 a (new)

1a. Member States shall base the assessment of the risks that substances on or in soil pose to human health or the environment on methodologies which take the concentration of the substances, the targets and the level of exposure into account.

Justification

The amendments to Article 11 are partly merging Articles 10, 11 and 12 and ensure that the Member States will set up a system to identify polluted soils. The amendments focus on the risks to human health and the environment and are less prescriptive than the Commission proposal on how the Member States need to identify the polluted areas.

Amendment 63
Article 11, paragraph 2

2. Within **five years** from [transposition date], **the competent authorities** shall have **identified** the location of **at least** the sites **where the potentially soil-polluting activities referred to in Annex II are taking place or have taken place in the past.**
For those purposes, the activities referred to in point 2 of Annex II shall be considered independently of the thresholds specified in Annex I to Council Directive 96/61/EC¹, except for the activities carried out by micro-enterprises, as defined in point 3 of Article 2 in the Annex to

2. Within **two years** from [transposition date] **the Member States** shall have **set up a system to identify** the location of the sites, **which shall involve:**

(a) taking into account existing information as to the presence of dangerous substances in soil or groundwater;

**Commission Recommendation
2003/361/EC², and those relative to the
rearing of livestock.**

The identification shall be reviewed at regular intervals.

¹ OJ L 257, 10.10.1996, p. 26.

² OJ L 124, 20.5.2003, p. 36.

(b) considering whether there is a significant probability that activities on and in the soil, involving dangerous substances, may have led to soil contamination that presents a risk to human health or the environment taking into account all relevant factors and having regard to the activities as specified in Annex II; and

(c) if necessary, considering whether the levels of these substances are such that there is good reason to believe they pose a significant risk to human health or the environment, taking current and future approved use into account.

The identification shall be reviewed at regular intervals.

Justification

The amendments to Article 11 are partly merging Articles 10, 11 and 12 and ensure that the Member States will set up a system to identify polluted soils. The amendments focus on the risks to human health and the environment and are less prescriptive than the Commission proposal on how the Member States need to identify the polluted areas.

Amendment 64

Article 11, paragraph 3, introductory part

3. In accordance with the following timetable, the competent authorities shall **measure the concentration levels of dangerous substances** in the sites identified in accordance with paragraph 2, **and where the levels are such that there may be sufficient reasons to believe that they pose a significant risk to human health or the environment, an on-site risk assessment shall be carried out in relation to those sites:**

3. In accordance with the following timetable the competent authorities shall **endeavour to ensure that the necessary investigations and assessments of risks are carried out** in the sites identified in accordance with paragraph 2 **to verify whether the site is a polluted site as defined in Article 2:**

Justification

The amendments to Article 11 are partly merging Articles 10, 11 and 12 and ensure that the Member States will set up a system to identify polluted soils. The amendments focus on the risks to human health and the environment and are less prescriptive than the Commission proposal on how the Member States need to identify the polluted areas.

Amendment 65

Article 11, paragraph 3 a (new)

3a. Member States shall ensure that:
(a) the potential buyer of a site identified in accordance with paragraph 2 is informed about the past activities on the site and, where existing, the results of the assessments and investigations under paragraphs 2 and/or 3 before the site is sold in parts or entirely,
(b) the investigation and assessment necessary to decide whether a site is a risk to human health or the environment should always be completed before construction of any new development begins. Member States may require the owner or a developer to carry out these investigations and assessments.

Justification

The amendments to Article 11 are partly merging Articles 10, 11 and 12 and ensure that the Member States will set up a system to identify polluted soils. The amendments focus on the risks to human health and the environment and are less prescriptive than the Commission proposal on how the Member States need to identify the polluted areas.

Amendment 66

Article 11, paragraph 3 b (new)

3b. The reports of investigations according to paragraphs 3 and 3a shall be made available to the competent authority.

Justification

The amendments to Article 11 are partly merging Articles 10, 11 and 12 and ensure that the Member States will set up a system to identify polluted soils. The amendments focus on the risks to human health and the environment and are less prescriptive than the Commission proposal on how the Member States need to identify the polluted areas.

Amendment 67

Article 11, paragraph 3 c (new)

3c. Member States shall, where appropriate, give special attention to the distinction between anthropogenic pollution and geogenic contamination. Geogenically contaminated soils as defined in Article 2 shall be evaluated in terms of their risks to human health and the environment.

Justification

The amendments to Article 11 are partly merging Articles 10, 11 and 12 and ensure that the Member States will set up a system to identify polluted soils. The amendments focus on the risks to human

health and the environment and are less prescriptive than the Commission proposal on how the Member States need to identify the polluted areas.

Amendment 68
Article 12

Article 12

deleted

Soil status report

- 1. Where a site is to be sold on which a potentially polluting activity listed in Annex II is taking place, or for which the official records, such as national registers, show that it has taken place, Member States shall ensure that the owner of that site or the prospective buyer makes a soil status report available to the competent authority referred to in Article 11 and to the other party in the transaction.***
- 2. The soil status report shall be issued by an authorised body or person appointed by the Member State. It shall include at least the following details:***
 - (a) the background history of the site, as available from official records;***
 - (b) a chemical analysis determining the concentration levels of the dangerous substances in the soil, limited to those substances that are linked to the potentially polluting activity on the site;***
 - (c) the concentration levels at which there are sufficient reasons to believe that the dangerous substances concerned pose a significant risk to human health or to the environment.***
- 3. Member States shall establish the methodology necessary for determining the concentration levels referred to in paragraph 2(b).***
- 4. The information contained in the soil status report shall be used by the competent authorities for the purposes of identifying contaminated sites in accordance with Article 10(1).***

Justification

Article 12 is partly merged in Article 11 and can therefore be deleted.

Amendment 69
Article 13, paragraph -1

-1. Member States shall, within seven years from [transposition date], ensure that a remediation strategy or strategies are

drawn up at the administrative level they consider appropriate, including at least a procedure for setting remediation targets, a procedure for prioritisation, a timetable for implementation of remediation measures for the sites identified in accordance with Article 11(2) and the funding mechanism pursuant to paragraph 3 of this Article. Member States shall notify the Commission in accordance with the procedure in Article 16 of their remediation targets, a procedure for prioritisation, a timetable for implementation of remediation measures for the sites identified in accordance with Article 11(2) and the funding mechanism pursuant to paragraph 3 of this Article.

Justification

Article 13 is partly merged with article 14.

Amendment 70
Article 13, paragraph 1

1. Member States shall ensure that the ***contaminated*** sites ***listed in their inventories*** are remediated.

1. Member States shall ensure that the ***polluted*** sites ***identified according to Article 11(2)*** are remediated.

Justification

Article 13 is partly merged with article 14.

Amendment 71
Article 13, paragraph 2 a (new)

2a. Member States shall determine the appropriate measure taking into account, inter alia, the costs and benefits of that measure.

Justification

Article 13 is partly merged with article 14.

Amendment 72
Article 13, paragraph 2 b (new)

2b. If the means required for remediation are not technically available, or represent a disproportionate cost with respect to expected environmental benefits, sites may be conditioned in such a way that they do not harm the environment or human health, including by restricting access to them or allowing natural recovery. If

Member States choose either of these options, they shall monitor the risk to human health and the environment.

Justification

Article 13 is partly merged with article 14.

Amendment 73
Article 13, paragraph 3

3. Member States shall set up appropriate mechanisms to fund the remediation of ***the*** contaminated sites for which, subject to the polluter pays principle, the person responsible for the pollution cannot be identified or cannot be held liable under Community or national legislation or may not be made to bear the costs of remediation.

3. Member States shall set up appropriate mechanisms to fund the remediation, ***or provide for the remediation,*** of ***those*** contaminated sites for which, subject to the polluter pays principle, the person responsible for the pollution cannot be identified or cannot be held liable under Community or national legislation or may not be made to bear the costs of remediation.

Justification

Article 13 is partly merged with article 14.

Amendment 74
Article 13, paragraph 3 a (new)

3a. The remediation strategy or strategies shall be in application and be made public no later than eight years after [transposition date]. They shall be reviewed at least every five years.

Justification

Article 13 is partly merged with article 14.

Amendment 75
Article 14

Article 14

deleted

National Remediation Strategy

1. Member States shall, on the basis of the inventory and within seven years from [transposition date], draw up a National Remediation Strategy, including at least remediation targets, a prioritisation, starting with those sites which pose a significant risk to human health, a timetable for implementation, and the funds allocated by the authorities responsible for budgetary decisions in the Member States in accordance with their

national procedures.

Where containment or natural recovery are applied, the evolution of the risk to human health or the environment shall be monitored.

2. The National Remediation Strategy shall be in application and be made public no later than eight years after [transposition date]. It shall be reviewed at least every five years.

Justification

Article 14 is partly merged with article 13 and can therefore be deleted.

Amendment 76

Article 16, paragraph 1, point (- a) (new)

(-a) the voluntary code of good practice, pursuant to Article 4(1b);

Amendment 77

Article 16, paragraph 1, point (b)

(b) the *risk* areas established pursuant to Article 6(1);

(b) the *priority* areas established pursuant to Article 6(1) *at a scale of 1:250.000, and the valuable soils identified pursuant to Article 4(1a);*

Amendment 78

Article 16, paragraph 1, point (c)

(c) the methodology used for *risk* identification pursuant to *Article 7*;

(c) the methodology used for identification of *priority areas* pursuant to *Article 5a (2) and for identification of valuable soils pursuant to Article 4(1a);*

Amendment 79

Article 16, paragraph 1, point (d a) (new)

(da) policies and measures in the field of agriculture taken under Article 8a, including the standards for the quality of compost;

Amendment 80

Article 16, paragraph 1, point (e)

(e) the *outcome of the identification* pursuant to Article 11(2) *and (3) and the inventory of contaminated sites established pursuant to Article 10(2);*

(e) the *system to identify the location of the sites* pursuant to Article 11(2);

Amendment 81
Article 16, paragraph 1, point (f)

(f) the ***National Remediation Strategy*** adopted pursuant to ***Article 14***;

(f) the ***remediation strategy or strategies*** adopted pursuant to ***Article 13***;

Amendment 82
Article 17

Within one year from [entry into force], the Commission shall set up a platform for the exchange of information between Member States and stakeholders on the ***risk*** area identification pursuant to Article 6 ***and on*** risk assessment methodologies for ***contaminated*** sites currently in use or under development.

Within one year from [entry into force], the Commission shall set up a platform for the exchange of information between Member States and stakeholders on:

- (a) best practices on preserving and improving the soil's function to act as a carbon pool, pursuant to Article 3;***
- (b) the identification of valuable soils and best practices to protect, preserve and improve their characteristics and functions pursuant to Article 4(1a);***
- (c) codes of good practice pursuant to Article 4(1b), including best practices for preventing and combating erosion, organic matter decline, compaction, salinisation, landslides, adverse effects from climate change, desertification, and biodiversity decline resulting from soil degradation processes;***
- (d) the codes of good practice for sealing pursuant to Article 5;***
- (e) the priority area identification pursuant to Article 6;***
- (f) risk assessment methodologies for polluted sites currently in use or under development;***
- (g) scientific information on soil protection from inter alia the Seventh Framework Programme and subsequent programmes.***

Justification

The platform for the exchange of information should get a broader and more central role than in the Commission proposal.

Amendment 83
Article 18

1. The Commission may, in accordance

The Commission may, in accordance with

with the regulatory procedure with scrutiny referred to in Article 19(3), adapt **Annex I** to technical and scientific progress.

2. Where, on the basis of the exchange of information referred to in Article 17, a need to harmonise the risk assessment methodologies for soil contamination is identified, the Commission shall adopt common criteria for soil contamination risk assessment in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).

3. Within four years after [date of entry into force], the Commission shall adopt, in accordance with the regulatory procedure referred to in Article 19(2), the necessary provisions on data and metadata quality, utilisation of historical data, methods, access, and data-exchange formats for the implementation of the provisions of Article 16.

the regulatory procedure with scrutiny referred to in Article 19(3), adapt **Annexes -I, I and Ia** to technical and scientific progress.

Justification

The role of the platform for the exchange of information has been extended. Given the character of this directive it is preferable to coordinate through exchange of information instead of through the comitology procedure.

Amendment 84
Annex - I (new)

ANNEX -I

Possible elements in the codes of good practice for protection or improvement of the soil

Codes of good practice for the different land use activities referred to in Article 4 may contain the following elements:

- 1. a description of the impacts on soil functions that can be expected (only those soil functions likely to be significantly hampered would need to be considered);***
- 2. techniques, methods and land management practices that can minimise the disruption to soil functions, while at the same time allowing a sustainable use of the soil;***
- 3. a list of information sources and competent authorities that can advise the land user on how to use the soil with minimum soil disruption;***
- 4. a list of national and Community legislation relevant to soil protection and applicable to the specific activity;***

5. guidance for risk assessment methodologies.

Amendment 85
Annex I a (new)

ANNEX Ia

Possible measures pursuant to Article 8

**POSSIBLE MEASURES TO COMBAT
EROSION**

Change arable land to grassland
Planting of hedgerows, groups of trees and afforestation
Restriction of construction work in very vulnerable sites
Adequate crops/crop rotations and catch and interim crops
Application of compost
Reduced tillage
Mulching
Use of winter cover, buffer strips and hedgerows
Proper use of machinery
Construction and maintenance of terraces
Prevention of fires
Restriction of inappropriate practices on hill slopes
Coastal management techniques

**POSSIBLE MEASURES TO COMBAT
ORGANIC MATTER DECLINE**

Change arable land to grassland
Planting of trees
Application of compost
Restriction of construction work in very vulnerable sites
Adequate crops/crop rotations and catch and interim crops
Reintroduction in the soil of crop residues
Reduced tillage
Mulching
Avoid the drainage of wetlands to protect peat soil

**POSSIBLE MEASURES TO COMBAT
SALINISATION**

Change arable land to grassland
Adequate crops/crop rotations
Application of appropriate irrigation techniques and equipment
Use of water of appropriate quality
Appropriate drainage of irrigated land
Use of organic fertilisers (e.g. compost, manure)
Soil washing

**POSSIBLE MEASURES TO COMBAT
COMPACTION**

Change arable land to grassland
Reduced tillage
Application of compost
Cultivation at optimal soil moisture
Restriction of excessive heavy machinery use
Use of low contact pressure and low pressure tyres
Appropriate drainage
Adequate stocking rates and duration of grazing

**POSSIBLE MEASURES TO COMBAT
 LANDSLIDES**

Restrict constructions that increase landslide risks, especially on steep slopes
Avoid deforestation and planting of trees to retain the soil in place
Prevention of land abandonment
Establishment and maintenance of landscape elements such as terraces, hedgerows, groves

Amendment 86
 Annex II

ANNEX II

List of potentially soil polluting activities

1. Establishments where dangerous substances are or were present in quantities equal to or in excess of the amounts indicated in Parts 1 and 2, column 2 of Annex I to Council Directive 96/82/EC (Seveso).
2. Activities listed in Annex I to Council Directive 96/61/EC.
3. ***Airports.***
4. ***Ports.***
5. ***Former military sites.***
6. Petrol and filling stations.
7. ***Dry cleaners.***
8. Mining installations not covered by Council Directive 96/82/EC, including extractive waste facilities as defined in Directive 2006/21/EC of the European Parliament and of the Council.
9. Landfills of waste as defined in Council Directive 1999/31/EC.
10. Waste water treatment installations.
11. Pipelines for the transport of dangerous substances.

ANNEX II

Activities referred to in Article 11(2)

1. Establishments where dangerous substances are or were present in quantities equal to or in excess of the amounts indicated in Parts 1 and 2, column 2 of Annex I to Council Directive 96/82/EC (Seveso).
2. Activities listed in Annex I to Council Directive 96/61/EC.
6. Petrol and filling stations.
8. Mining installations not covered by Council Directive 96/82/EC, including extractive waste facilities as defined in Directive 2006/21/EC of the European Parliament and of the Council.
9. Landfills of waste as defined in Council Directive 1999/31/EC.
10. Waste water treatment installations.
11. Pipelines for the transport of dangerous substances.
- 11a. Other sites where there is or has been handling and storage of dangerous substances, including airports, ports, former military sites and dry cleaners.***

EXPLANATORY STATEMENT

The need for a Framework Directive for Soil Protection

Before clarifying the content of the draft report it is important to explain why the soil should be protected and why a framework directive would be the right instrument:

- Soil is a non-renewable resource. In a world with an increasing population the demand for food and water will grow. Agriculture will need to produce more food and will require more water. Protection of the soil is essential to safeguard food production and sufficient and clean water for future generations;
- Soil is a platform for many important functions. It is a platform for human activities, including cities and infrastructure, but also for nature and valuable landscapes. Protection of the soil is crucial for preserving our cultural heritage and natural resources;
- Soil protection is strongly related to mitigating and adapting to climate change. Changes in soil use can result in increased carbon sequestration or in increased greenhouse gas emissions. At the same time, climate change will have severe impacts on soil in terms of water scarcity, droughts and floods;
- Soil protection prevents the decline of organic matter, which is crucial for the fertility of the soil, for food production and for combating erosion, desertification and climate change;
- Protection of the soil ensures that human activities can take place in a safe and healthy environment. Polluted sites need to be identified and the risks to human health and the environment assessed;
- Sealing is an irreversible process that needs to be addressed. Proper access to green areas in cities, characteristic landscapes, coastal areas, historical sites need to be preserved. Increased flood risks need to be prevented;
- Land transactions in a transparent common market require adequate information on the quality of the soil. Therefore polluted sites need to be identified in a register under the responsibility of Member States;
- Exchange of information and coordination on best practices of soil protection, based on the latest scientific knowledge, can improve protection of the soil in Member States;
- A flexible framework directive that recognises the subsidiarity principle is the best instrument to encourage Member States to preserve their soils. A more prescriptive instrument, such as a regulation, would not recognise the different national circumstances and the different approaches towards soil protection. A non-binding instrument would not result in the minimum protection that is needed in all Member States and would not prevent the distortion of competition caused by different national policies.

The philosophy of the draft report

The draft report has completely changed the Commission proposal. The draft report contains many both conceptual and technical amendments, based on a different philosophy:

- The report includes on the one hand common objectives for protection of the soil related to soil

degradation processes and to information on polluted soils, but at the same time it respects the subsidiarity principle to the utmost. Member States have to define their own measures, and set up their own strategies and identification systems, based on their own methodologies.

- In legislative terms this means that the report has been adjusted so that it corresponds more closely to Article 249 of the Treaty which makes the distinction between common objectives and the instruments used to realise those objectives. Article 249 clearly states that a directive shall be binding, as to the result to be achieved, but shall leave to the national authorities the choice of form and methods.

The content of the draft report

This different philosophy resulted in several amendments. The most important changes are:

- The common objectives of the directive have been better clarified. Some objectives have been added or further elaborated (valuable soils, geogenically contaminated soils, the need for an integrated approach to the provisions in existing directives, the integration of the soil's function to act as a carbon pool in future soil policies). At the same time the draft report provides more flexibility for Member States.
- The draft report enhances the role of exchange of information and coordination through the platform established under Article 17. It reduces the role of the more binding Comitology procedure.
- The principle of subsidiarity has been amplified and guaranteed to the point of affirming that Member States who already have laws covering these objectives do not have to revise the laws. This is to pre-empt the complaints of some states who already have laws in place for contaminated soil and cataloguing and who are concerned about having to make many changes.
- The general tone of the report has been changed from having a negative character to having a positive one:
 - The term "risk area" has been replaced with the term "priority area." In this way negative labelling of soil that is at risk is avoided.
 - The concept of "valuable soil" has been introduced so that those Member States that so choose may use it as a legal basis for their protection policies. Many Member States such as Germany, the U.K. and France have similar legislation in place and the idea would be to extend this practice to other countries.
- With respect to agriculture, Amendment 57 ensures that the compliance with eco conditionality has to be decided at Member State level. Amendment 54 states that the directive should not overlap with existing legislation. Member States should build upon the obligations, plans and programmes that are already set up.
- Also for the contamination part, the overall philosophy is that the framework directive should ensure that Member States will protect their soils by providing objectives (the setting up of an identification system, based on a risk assessment taking into account the concentrations and the level of exposure, the information to be provided to buyers in the event of a land transaction, the establishment of remediation strategies), but that it should leave it to Member States to decide how to do this. The directive should not result in any unnecessary additional administrative burden.
- The draft report contains a requirement to report to the Commission on the priority areas, because these are larger areas, with possible consequences on a larger scale that are relevant for

international issues such as climate change, desertification and biodiversity. For polluted sites this is not the case. Only Member States need to know where the sites are and ensure that in the event of land transactions potential buyers are informed. It is left to the Member States to decide whether they want a single national remediation strategy or remediation strategies at lower administrative levels.

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- Instead of stating that Member States shall take measures, the directive provides that they shall ensure that measures are taken. This way they can also delegate for example to regional or local authorities (Article 9).
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- A distinction has been made between "polluted" sites (the contamination is caused by man) and "geogenically contaminated soils" (the contamination is caused by geogenic sources, such as parent material and volcanic material). For geogenically contaminated soils the draft report merely requires Member States to give special attention to these soils and to evaluate them in terms of their risks to human health and the environment (amendment 67).
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- Annex II has been redrafted. It no longer stigmatises airports, ports, former military sites and dry cleaners. Instead it establishes more of a link with the handling and storage of dangerous substances.
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