

Statement on Annex II from AUSTRIA

Annex II aims to list potentially soil polluting activities (indeed it mainly indicates certain installations suspected by the Commission as a potential threat for causing soil contamination). According to the Commission's proposal, Annex II serves as a legally binding basis for soil investigations according to Article 10 and for the Soil Status report according to Article 12.

The following statements are based on almost 20 years of national experience with contaminated land management (CLM). In addition, contaminated land experts from more than 20 EU Member States collaborated in the EU Concerted Actions CARACAS (Risk Assessment for Contaminated Land in the EU; 1996 – 1998) and CLARINET (Risk Management of Contaminated Land in the EU; 1998 – 2001). The following comments also consider those Pan-European conclusions derived from these networks.

(1) **no mandatory Annex II list** - A “black list” of activities in a juridical framework at EU level creates more problems than it solves. Those MS, which have implemented a national contaminated land regime, use tools to perform systematic surveys to identify potentially contaminated sites at a regional or national basis. However, such tools are never mandatory or embedded into national legislation, because such “lists” or databases serves as management tools to implement a CLM strategy most efficiently. This means that such management tool needs some flexibility to allow continuous improvement and adaptation.

(2) **national/regional differences** - Conclusions derived in the EU networks CARACAS and CLARINET show that the types of potentially polluting activities depend on national and regional circumstances. The risk for soil contamination related to certain activities varies between MS. The reasons are: industrial heritages of MS are different, processing of certain industrial products varies between MS and regions, implementation of best practice differ between countries (e.g. technology improvements; changes in productions; regulated via laws, ordinances, guidelines???) . A mandatory and inflexible list as proposed with Annex II could lead to unnecessary investigations of low priority activities in some countries and, consequently, to a loss of resources.

(3) **Austrian proposal: Common elements in the identification of potentially polluting activities** – Our first and preferred option is to delete Annex II. However, if this is not possible, we propose to focus on the technical principles behind the identification and assessment of potentially polluting activities (these should be “non-mandatory principles” like “Annex I type”).

In Austria, our management tool is a database which covers approx. 50 industrial branches with more than 1.000 potentially contaminating activities (which are evaluated based on our national specific industrial heritage). These activities are risk-based depending on following basic factors: size of enterprise; type of chemicals used; activities and technologies used in the production; duration of the potentially polluting activity (see figure).

A commonly agreed methodology should be covered in a technical guidance document. Based on our experiences we are convinced that such a procedure would support the “less experienced” MS best to tailor their management tools most efficiently to their specific situation.

Erreur ! Des objets ne peuvent pas être créés à partir des codes de champs de mise en forme.

(4) **Comments to Annex II** - To provide concrete comments to each of the points listed in Annex II is difficult, because the proposed Annex II list is unsuitable as a whole to meet the intended purpose.

However, even some installations/activities listed in Annex II can be taken as examples to underline the Austrian position of considering national differences in the identification of high-risk activities:

- *ports* may be high risk installations in those countries with access to the sea, but they are less important in Austria.
- The expert discussion on Annex II revealed substantial differences in the logistic of *dry cleaners* between Mediterranean countries and Northern European countries.

We don't consider *waste water treatment installations* as a soil contamination threat rather than a threat for groundwater contamination.

Waste landfills fall also under IPPC (waste management)

Missing are some past industrial installations like *former gasworks* which led to severe soil contamination in all MS.