

**COMMON FORUM on Contaminated land
In the European Union
18 September 2009
Helsinki, Finland**

Meeting Report



The Helsinki meeting was attended by:

Harald Kasamas (Austria)
Marijke Cardon (Belgium)
Esther Goidts (Belgium)
Birgitta Beuthe (Belgium)
Anna-Maija Pajukallio (Finland)
Jussi Reinikainen (Finland)
Fantine Lefèvre (France)
Philippe Bodenez (France)
Joerg Frauenstein (Germany)
Gabor Hasznos (Hungaria)
Francesca Quercia (Italy)
Co Molenaar (Netherlands)
Margot Meijer (Netherlands)
Anja Sinke (NICOLE)
Kine Martinsen (Norway)
Begoña Fabrellas (Spain)
Juan Grima (Spain)
Erika Skogsjo (Sweden)
Helena Fürst (Sweden)
Dominique Darmendrail (COMMON FORUM)
Joop Vegter (COMMON FORUM)
Ingrid Van Reijssen (SNOWMAN)

21 September, 2009
Dr. Dominique Darmendrail

MEETING REPORTING

Note: Handouts of all presentations from this meeting are available for download at <http://www.commomforum.eu>

Friday 18 September 2009

Session 1: Update of the European Agenda

- **ELD Comparison Study:**

Since Dublin meeting, three new questionnaires were received: Denmark, Finland and France. Updates from United Kingdom, Belgium/Flanders and Netherlands have been done.

The synthesis should be completed and published for the following CF meeting.

- **Survey of European Directives:**

The CF network will continue to work on different directives whatever is their status:

- Draft directive on Soil Protection:
- Industrial Emissions Directive –soil related issues:
- Revision of the Waste Directive – soil related issues:
- Mining wastes Directive (2006/021/EC):

Depending of their status (before elaboration, under political negotiation, during its implementation) the work to be done within CF will vary (from technical / strategic discussions to countries position).

As mentioned by Claudia Olazabal, European Commission, DG Environment, the renewable energies Directive (2009/0016/EC published the 23rd of April, 2009) could also be of concern. This should be reviewed for the future meeting.

The question 'how to handle treated soil under the REACH Directive' was raised during the discussion.

- **Specific focus on the IED Directive Soil related issues:**

A political agreement was found at the June 2009 Council meeting. The second reading is under going. CF should continue when the final text will be ready. Comments to National representatives could rely on CF discussion.

A special attention to Articles 3 (definition), 11 (general obligations of the operator), 12 (application for permits), 14 (permit conditions), 16 (monitoring requirements) and

22 (site closure) should be required. Discussions around the BAT/BREFs should also be followed.

- ***Specific focus on the Waste Directive (2008/98/EC) / Soil related issues:***

The new Waste Directive has to be implemented at national level before end of 2010. A.M. Pajukallio, Finland, presented the main issues of concern in this Directive. See attached file.

This Directive has in its scope the excavated contaminated soils. European countries have chosen different ways for transposing this directive in their national legislation/policy (see ICCL 2009 / Helsinki Questionnaire).

- Some work will be done under the comitology phase, in particular for the review of the waste list, The ongoing discussions are based on a report of a consultant (http://ec.europa.eu/environment/waste/pdf/low_review_oekopol.pdf) and the most interesting issue concerning soil is probably the classification between hazardous and non-hazardous waste. Some aspects of concern: H-criteria which do not have binding definitions. Two of these could have an impact on soil issues: H9 (infectious), H14 (ecotoxic). The ecotoxic criterion could be very challenging for metals.
- Substances specific limit values

The NICOLE network has produced a discussion document on this directive. [See attached file.](#)

- ***Soil Framework Directive:***

Spain will lead initiatives on this proposal. In order to prepare the work under the Spanish EU Presidency, a meeting with the European Commission is planned next week. Depending on the potential of improving technical aspects of the proposal, some additional discussions could be organised within the Common Forum as we did in the past (see Dublin meeting, under the Czech Presidency).

Session 2: Country tour de table

- **Member News:**

New country / region representatives have joined the network:

- For Belgium/Wallon region: Esther Goidts (Ministry) and Birgitta Beuthe (Spaquet),
- For France, Philippe Bodenez (Ministry),
- For Spain, Begoña Fabrellas (Federal ministry) and Juan Grima (IGME),
- For Norway, Kine Martinsen (Norwegian Pollution Control Authority).

As guests, Ingrid Van Reijssen (SNOWMAN) and Jos Brils (SEDNET) will also be invited for the future meetings.

- **Update of country contact points for CF and ICCL:**

As seen for the organisation of the ICCL meeting, country representatives have changed in the past. To update the database, we would greatly appreciate to receive information from the CF members on their active contact points in Ministries/Agencies in other countries.

- **German Lignite remediation programme – J. Frauenstein:**

J. Frauenstein presents the German programme on Lignite mining rehabilitation (see attached file), with a special focus on the different types of sites and their residual impacts (geotechnical, stability, groundwater management, neutralisation of acid drainages and the remediation of conventional contaminated sites (e.g. refineries and landfills).

In the German context, it is interesting to note that more reclamation can be done under the Mining Code (i.e. the reuse of the site after reclamation is mandatory).as under the principle of the German soil protection act, namely the prevention of dangers of affected sites

The groundwater management seems to be the main long-term issue. More than 70 years could be necessary to reach the pre-mining state of a self-maintained groundwater system and a sustainable chemical status of surface waters in mining areas.

- **Current developments on Contaminated sites close to sensitive locations – P. Bodenez:**

P. Bodenez presents the current developments on a large program of investigations on buildings receiving sensitive population (children and teenagers) close to location of former industrial sites. The aim is to characterize the soils in order to check if a pollution remains, that could affect health of children and teenagers. This initiative is a commitment of the government in the frame of the large consultation of stakeholders called “the Grenelle of the Environment”.

The two first steps, in order to identify the schools that will be investigated, are undergoing. 1200 à 2000 schools or kindergarten may be investigated during the step 3.

The communication with the public, especially the parents, the teachers and the head of the schools is one of the main issues. The step 3 (characterisations) will start in 2010.

Session 3: Secretariat Issues, Closure of the meeting

Several issues of concern for the secretariat task have been quickly presented and discussed:

- **update of the CARACAS / CLARINET documents on legal framework in Member States:**

A questionnaire has been elaborated with the help of some members of the network. The proposal of questionnaire will be diffused to the whole group for comments/proposals of amendments within two weeks (deadline: 5th of October, 2009).

- **Demands from other networks:**

A) The US National Renewable Energy Laboratory (contact: Jared Temanson) is interested in the use of contaminated sites, brownfields for developing renewable energy plants (solar, wind, geothermal, bio-refinery, etc). Information he is looking to include on his matrix would be the project's name (assuming it has one), the location, the size or load capacity-preferably on a kWh or MWh/year basis, the date it started operation, who the vendor is (who is purchasing the energy, who supplied the PV panels/wind turbines/etc.) and a link or two if possible.

Please send information to the Common Forum Secretariat who will make a synthesis for the US Laboratory and the network.

B) HERACLES: the final statement 'Towards consistency in tools for the risk-based assessment of soil quality in Europe' is now available at:
<http://www.rivm.nl/bibliotheek/rapporten/711701091.html>

C) EURODEMO+ / Joint Statement on Demonstration programmes:

Since the presentation of the proposal in Dublin (see meeting report on the CF website) comments and proposals of modifications have been sent to the other networks beginning of July 2009 in order to continue the debate on this important issue.

Within the NICOLE network, the proposed paper has also been discussed. There are some remaining questions, such as what we want to achieve with this joint position paper, how to proceed with this paper together with the existing networks.

During the ICCL meeting, this issue has been discussed during a short session chaired by Joop Vegter, with the following results:

- it's a real issue that should be tackled at different levels,
- the proposal is interesting but should be insufficient. There is a need for additional actions such as mechanisms for funding, policy for sharing risk linked to the use of innovative technologies.

Therefore it is proposed to:

- have a very short statement on the need of demonstration programmes, signed with different European networks;
- continue the debate during the Common Forum – NICOLE workshop in spring 2010;
- continue to discuss with Eurodemo+ network and Snowman for potential funding.

- **Upcoming events:**

- Green remediation conference in Copenhagen (Denmark), 9-10th of November, 2009
- NICOLE workshop on site closure, in Douai (France), 19-20th of November 2009
- SETAC annual meeting, May 2010, Sevilla (Spain): proposal of a special session with TCB-NL on research needs for the Soil Framework Directive.

- **Possibility of additional funding under INTERREG IVc:**

Under the Capitalisation part of the INTERREG IVc programme there is some possibility for funding actions such as exchanges of experience, study/site visits, seminars/workshops/conferences and communication.

This funding programme could be interesting for enlarging our network. But there are some constraints summarised as below:

1. for 6 to 10 EU countries (max);
2. for public authorities / bodies, at National / Regional / Local levels
3. for a maximum of 2 years.

Answering to the call for proposals will require to identify a potential coordinator within the Network (CF secretariat is not eligible as such) and the Countries / Regions interested, to collect their letters of agreement and to built the proposal.

The deadline for answering being very short (4 months), if interested, please contact within two weeks the CF secretariat.

- **10th ICCL meeting:**

The 10th ICCL meeting will be hosted by USA. As for Helsinki meeting, there is no formal agreement from the country that could potentially host the 11th meeting in 2013.

Session 4: Next meetings

- **Spring 2010:**

We are searching for a hosting country for the Spring 2010 meeting. It will be a short meeting, back to back to the CF - NICOLE Workshop (self organised).

- **Autumn 2010:**

Austria will host the autumn 2010 meeting back to back to CONSOIL 2010 (Salzburg, 22 – 24 September 2010).

- **Topics to be discussed:**

- Legal/policy issues: review of the ongoing directives (see point 1), new developments on state aids;
- Technical issues: i.e. monitoring of environmental media for the IED Directive?
- Research projects results, i.e. Rejuvenate funded under Snowman first call.

Tasks List

Action	Responsible	Deadline
Revision of ELD comparison study : - review of late country answers (precision and case studies answers) - review of the synthesis	Buvé/Sinke/DD	01/10 03/10
Update of active contact point in foreign countries	All CF Members/DD	ongoing
Questionnaire on legal framework in European Countries: - revision - answers	All CF Members/DD All CF Members/DD	5 th of Oct 02/10
Contribution to other networks demands: - US Renewable Energy Laboratory - Eurodemo+/Joint paper: a) revision b) discussion with Eurodemo+	All CF Members/DD Vegter/Sinke/DD	ongoing 09/09
Hosting country for Spring 2010 meeting	Quercia? Other CF member?	10/09

ANNEXE

DRAFT - NOT ADOPTED

NICOLE Second Position on Waste June 2009 (SECOND DRAFT)

Comments on the Implementation of the Revised Waste Framework Directive for Soil Management on Contaminated Land and Brownfields

Introduction

NICOLE (Network for Industrially Contaminated Land in Europe) is a leading forum on contaminated land management in Europe, promoting co-operation between industry, service providers and academia on the development and application of sustainable technologies.

NICOLE's interest in waste is in relation to contaminated land management, soil treatment, and materials from brownfield regeneration. This position therefore considers contaminated soil (treated and untreated), made ground and natural ground (topsoil and subsoil). It currently does not include (but may be extended to include) surface water and groundwater; sediments; buildings and demolition materials; and recycled and secondary aggregates.

NICOLE previously commented on various texts of the revised Waste Framework Directive as it passed through drafting and legislative processes. NICOLE welcomes the principles contained in the Directive moving Europe towards becoming a recycling society.

NICOLE wishes to support appropriate and consistent interpretation of the revised Directive leading to appropriate transposition into national legislation enabling a more consistent approach to soil management in Europe. In particular NICOLE wishes to uphold fundamental established principles of 'suitability for use' and 'risk based land management', and witness a more consistent application of when a soil material is classified as a waste and when it ceases to be a waste. Through this NICOLE seeks to maximise opportunities to reuse treated and untreated soils reducing the burden on landfill and the use of primary, quarried, replacement.

The NICOLE Waste Working Group has compiled this Position Paper. NICOLE would be happy to work with European Institutions in respect of drafting guidance that helps to link contaminated land and waste policy in a way that positively encourages sustainable development.

Disclaimer: This document doesn't necessarily reflect the opinion of all individual NICOLE members or member organisations.

	Area	NICOLE Position	Purpose
Conceptual Framework	Waste Hierarchy (Article 4)	Where wastes arise on contaminated land and brownfield sites. NICOLE supports the sustainable application of the Waste Hierarchy to their management. NICOLE acknowledges a strong correspondence between the Waste Hierarchy term " <i>prevention</i> " and the <u>risk assessment process</u> (including desk studies, site investigations, data assessment and remedial planning), and the Waste Hierarchy terms ' <i>preparing for reuse</i> ', ' <i>recycling</i> ', and ' <i>other recovery</i> ' with <u>options selection and implementation</u> for soil reuse (including treated and untreated soil materials.).	Link contaminated land and waste approaches for soil in a way that favours sustainability
	Risk Assessment	NICOLE believes that Risk Assessment is the best available strategy for dealing with problems posed by land contamination. NICOLE believes that remediation targets based on location specific risk assessment are the best way to fulfil relevant environmental and health protection legislation and standards to meet suitability for use requirements for soils in a sustainable way. NICOLE therefore believes that Risk Assessment offers an important contribution as to whether there was ever intent or a requirement to discard soil; to the classification of soil as a by-product; and the de-classification of soil from waste status (see comments on Articles 3, 5 & 6 below).	
Definitions	Definition of Waste (Article 3.1)	Waste means any substance or object which the holder discards or intends or is required to discard. Not-with-standing the requirement to take into account European case law around the term 'discard', the general intent and practice for contaminated land and brownfield rehabilitation is to minimise soil discard and maximise soil reuse using risk assessment.	Clarify when soil becomes waste and when it ceases to be waste
	By-Products (Article 5)	Where there is certainty of use, soils are suitable for use and there will be no further processing of soils (other than normal industrial practice); NICOLE believes that soils meet the definition of by-product in brownfield development and land reclamation scenarios, and so are not waste. NICOLE believes that evidence for certainty of use may include regulatory permissions, registrations, permits and licenses coupled with contracts and specifications; evidence for suitability of use includes risk assessments and geotechnical specifications; and that normal industrial practice for soils in these scenarios includes excavation, storage, screening, geotechnical improvement, re-use, replacement and	

	Area	NICOLE Position	Purpose
		compaction.	
	End of Waste (Article 6)	<p>Where a market or demand exists for soils for common engineering purposes for redevelopment, remediation or land reclamation; and the soils are suitable for use such that there is no overall adverse environmental or human health impacts; NICOLE believes that soils can be regarded as no longer being waste.</p> <p>Regarding limit values for pollutants in soil; where Member States develop these then:</p> <ul style="list-style-type: none"> • Environmental and quality criteria should be risk based and location specific in accordance with current good practice • NICOLE would not have objections to Member States developing a parallel set of generic end-of-waste criteria for soils. There could be positive advantages in relation to, for example, the consideration of soil as a resource and marketing materials from soil treatment centres (e.g. The Netherlands) 	
Soil Management	Unexcavated In-Situ Soils	<p>Unexcavated contaminated soil is excluded from waste control (Article 2.1 b) unless it was originally deposited under a Waste Framework Directive permit. ^{Note 1}</p> <p>Unexcavated uncontaminated made ground, natural subsoil, natural topsoil is a constituent of 'land' and therefore NICOLE would consider these materials to be excluded from waste control (Article 2b).</p>	Clarify waste control around in-situ soils
	Reuse of Soil	<p>Pre-requisites for the reuse of soil (both treated and untreated) include:</p> <ul style="list-style-type: none"> • Appropriate soil characterisation - chemical and (where required) geotechnical testing • Traceability - a soil tracking system must be in place • Adherence to the 'Stand Still Principle' - soils must not only be suitable for use but also not of significantly worse quality than those in the receiving environment 	Maximise the safe and sustainable reuse of soil materials

	Area	NICOLE Position	Purpose
		<p><i>Reuse of Excavated Untreated Soil</i></p> <p>If at the point of excavation there is an intention to reuse the soil and the soil is not excluded from the scope of the Directive (e.g. Article 2c) subject to meeting by-product criteria it will be a by-product and not a waste. If it is not a by-product then it may need to be stockpiled as waste. Subject to meeting end of waste criteria, the soil will cease to be waste within the stockpile and be reused either on site or on another site. If it does not meet end of waste criteria it must be treated or disposed of.</p> <p><i>Reuse of Excavated Treated Soil</i></p> <p>If there is an intention to treat the soil either on site or off site it may be waste at the point of excavation. Subject to soils having met end of waste criteria NICOLE would consider that treated soil can cease to be waste upon exit of the treatment process (for both on site and off site treatment).</p>	
	Soil Disposal	<p>If there is an intention to dispose of the soil it will be waste at the point of excavation and will continue to be so at the point of disposal. It will only cease to be waste if the Waste Framework Directive permit held by the landfill is at some point surrendered.</p> <p>On most contaminated and brownfield sites there is a proportion of materials where there is no real alternative to disposal (e.g. asbestos) or where the lifecycle environmental impacts or costs of recycling outweigh the benefits. While quantities of these materials should be minimised in line with the Waste Hierarchy, waste disposal remains an essential element of many contaminated land and brownfield projects.</p>	Highlight that waste disposal remains a small but essential element of many contaminated land and brownfield projects.

Note 1 NICOLE would therefore not consider that soils treated by in-situ treatment technologies to be waste either prior to, during, or after in-situ treatment.

Ref: Directive 2008/98/EC of the European Parliament and of the Council of 19th November 2008 on Waste and Repealing Certain Directives

Reactions on this paper can be sent to: Ian Heasman, leader of the NICOLE Waste Working Group (ian.heasman@taylorwimpey.com)

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