

EC Directives related to Contaminated Sites Management: IPPC, Soils, Waste, Renewable Energies

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- Who are we?
- Missions
- The European Directives with contaminated soils related issues



“COMMON FORUM”

- Network of contaminated land policy experts and advisors (since 1994)
- Mission:
 - Being a platform for exchange of knowledge and experiences, for initiating and following-up of international projects among members,
 - Establishing a discussion platform on policy, research, technical and managerial concepts of contaminated land,
 - Offering an exchange of expertise to the European Commission and to European networks.



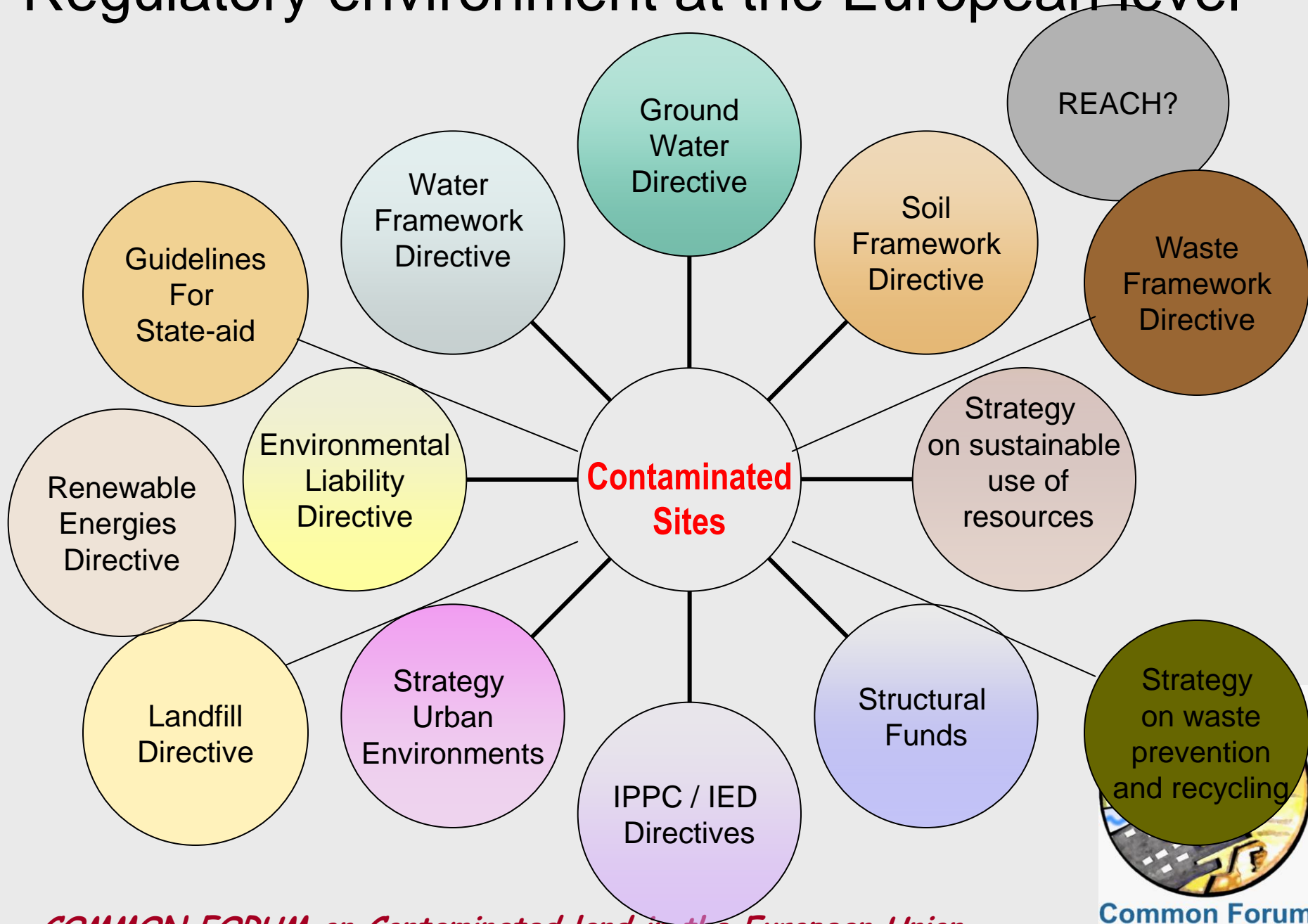
The European and International Networks on contaminated land management

- NATO CCMS
- **Common forum on contaminated land in Europe**
 - CARACAS
 - CLARINET
- Ad Hoc Working group on contaminated land
- NICOLE
- Sednet
- Cabernet
- Eurodemo / Eurodemo+

- SNOWMAN



Regulatory environment at the European level



Main focus at the time

- Proposal of a Soil Protection Directive
- IPPC /IED
- New Wastes Directive
- Biofuels? Reach?



Draft Soil Protection Directive / The Inter-institutional debate

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



Blocking Minority MS Statements

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



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Second part of the discussion

- French Presidency / new proposal:
 - Different objectives
 - New methodology
- Czech Presidency:
 - Intense discussions but No Proposal for a vote at the June European Council (risk for a new blocking minority – Same Five + Malta)
- Nothing under the Swedish Presidency
- Could be at the agenda of the 2010 EU presidencies (Spain, Belgium).



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The IPPC Directive Review - IED / CF analysis

- Some soil and groundwater protection related elements introduced , like
 - Periodical monitoring
 - Baseline report
 - Site closure and remediation
 - (BAT/ BREF-documents)
- POLITICAL AGREEMENT IN COUNCIL IN JUNE 2009
 - COMMON POSITION THIS YEAR
 - ACCEPTANCE MAYBE IN THE END OF 2010 ?



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IPPC Review - IED / Discussion points

- **Periodic monitoring**
 - periodic monitoring not for all installations, reference (art. 15(d)) to dangerous substances likely to be found ...;
 - if monitoring is required, it has to be periodic
 - frequency of at least every 5 years (GW), 10 years (soils)
- **Monitoring of soil and groundwater and BREF-documents**
 - How to tackle monitoring of soil and groundwater and remediation of the site in BREF-documents?
- **+ monitoring of IPPC plant integrity**



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IPPC Review - IED / Discussion points

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



Para 3

“ Upon definitive cessation of the activities, the operator shall assess the state of the soil and groundwater contamination by relevant hazardous substances used, produced or released by the installation. Where the installation has caused significant pollution of soil or groundwater by relevant hazardous substances compared to the state established in the baseline report referred to in paragraph 2, the operator shall take the necessary measures to address that pollution so as to return the site to that state. For that purpose, the technical feasibility of such measures may be taken into account.

Without prejudice to the first subparagraph, upon definitive cessation of the activities, and where the contamination of soil and groundwater at the site poses a significant risk to human health or the environment as a result of the permitted activities carried out by the operator before the permit for the installation is updated for the first time after ...* and taking into account the conditions of the site of the installation established in accordance with Article 12(1)(d), the operator shall take the necessary actions aimed at the removal, control, containment or reduction of relevant hazardous substances, so that the site, taking into account its current or approved future use, ceases to pose such risk.”



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18.9.2009 CF

IPPC Review - IED / Discussion points

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



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New waste directive / Soil related issues

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



New waste directive / Soil related issues

- For Excavated uncontaminated soil used elsewhere:
- It is in principal **waste**
 - Permit or simplified notification is needed for the reuse
- Or not – if **no waste status**
 - Waste or non-waste status has to be defined



New waste directive / Soil related issues

- The permit requirement (article 23)
 - Establishment or undertaking intending to carry out waste treatment (includes recovery) shall obtain a permit from the competent authority
- Rather heavy instrument for clean soil!
- "professional" reuse – large quantities => permit
- "private" reuse - small quantities => case by case – assessment, no permit requirement?
 - local general provisions instead?



New waste directive / Soil related issues

- The **exemption for permit requirement** for establishments or undertakings that carry out waste recovery (article 24 - 26)
 - if the authorities have adopted **general rules** for each type of activity laying down the types and quantities of waste that may be covered and the method of treatment to be used
 - The establishments and undertakings shall be **registered** with the competent authorities
 - MSs shall **inform** Commission
- Could this be an useful instrument for contaminated soil /slightly contaminated soil or treated soil used in certain specific structures?
 - Rather heavy for clean soil?



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Directive on wastes from extractive industry – inert waste

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



SUSTAINABILITY CRITERIA FOR BIOFUELS

Directive 2009/28/EC

Calculating GHG emissions savings (Annex V)

Bonus (29 gCO₂eq/MJ) if the land:

- (a) was not in use for agriculture or any other activity
- (b) falls into one of the following categories:
 - (i) severely degraded land, including such land that was formerly in agricultural use;
 - (ii) heavily contaminated land (land that is unfit for the cultivation of food and feed due to soil contamination)



- Bonus applies for up to 10 years provided that [...] that soil contamination for land is reduced
- Commission to make a proposal by March 2010 for criteria to define heavily contaminated land under the Renewable Energy Directive



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Needs for Harmonisation or Common Ground? (1/2)

- **Geographical level: Impossible! Too different**
 - Soil / aquifer materials
 - Climate,
 - Vegetable, food and water consumptions
 - Land use scenarios (time scale options, ...)

One set of Soil Quality Standards?
No!

The same blueprint? No!



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Needs for Harmonisation or Common Ground? (2/2)

- **Technical level:**

- Tool box for Risk Assessment, with several models, different levels of details
- Common protocol for choosing the appropriate models
- Common set of exposure factors, reference doses?
- Recommendations for i.e. use of safety factors? Taking into consideration background levels?

- **Political level:**

- Acceptable risk for different land uses?
- Targets to be protected (Human Health, Ecosystems? Ground water, Surface waters, Others?)
- Substances to be covered / excluded



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- Merci, Thanks for your attention!



- More information on www.commonforum.eu

